

BANK LAWS

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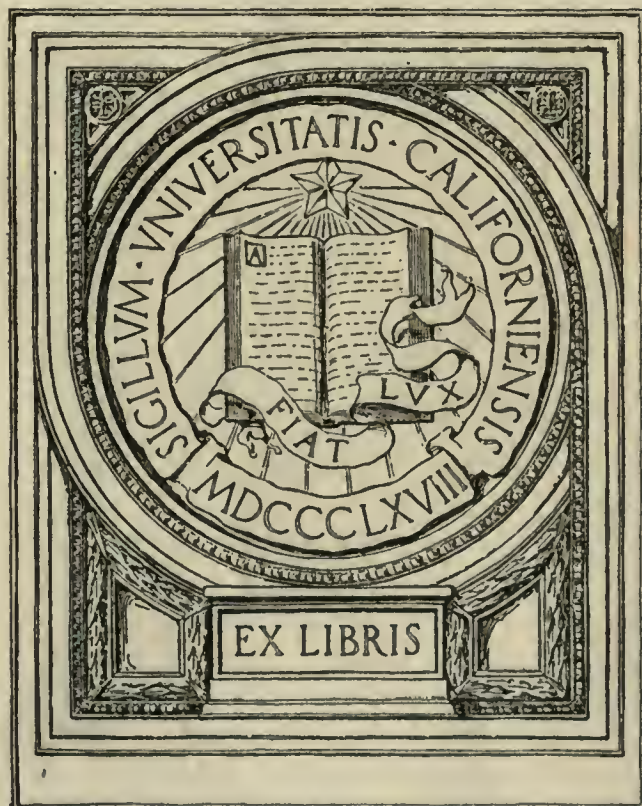
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Bank Laws

(Fourth Edition)

Bank Act of California as Amended.

Public Deposit Acts of California
as Amended.

Investment Companies Act of California.

National Bank Act as Amended.

Currency Act of March 14, 1900.

Additional Circulation Act.

Postal Savings Bank Act.

New York Savings Bank Law.

COMPILED BY

N. W. HALSEY & COMPANY

SAN FRANCISCO

1913

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Fourth Edition

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1913

Preface

This Fourth Edition of our compilation of "Bank Laws" is designed to give in compact and convenient form the latest revisions of the Statutes, both National and State, which affect the bond holdings of California banks. The two principal Statutes presented are the California Bank Act, as revised at the 1913 Session of the State Legislature, which Act applies to Commercial Banks, Savings Banks and Trust Companies doing business in California, and the National Bank Act, as amended to date, which governs the operations of National Banks. In order to add to the reference value of the book, we have carefully annotated these Statutes, having the parts of the law referring specifically to bonds printed in black faced type.

Other California laws included are the Public Deposit Acts and the Investment Companies Act. Statutes permitting the deposit of State and other public funds in banks against the pledge of State or Municipal bonds were first passed at the 1907 Session of the Legislature. These statutes have unquestionably added to the attractiveness of public bonds, State and Municipal, as a reserve holding for banks. The principle of these laws appears to be sound and will probably remain a part of the permanent policy of the State. The Investment Companies Act, or "Blue Sky Law", as it is popularly termed, enacted at the 1913 Session of the California Legislature, is somewhat of an innovation. This law provides for a State regulation of public offerings of bonds and stocks, and is designed primarily to prevent the sale of unsafe or fraudulent securities to inexperienced investors. It is hoped that this Law will prove beneficial to conservative dealers in investment securities, through the elimination of unscrupulous competition, but until a thorough test is made of its operation and the operation of similar statutes recently enacted in other states, it will be impossible to judge with any accuracy the practical effect of this legislation.

Among the National statutes included in this volume are the Postal Savings Bank Law, enacted by the Sixty-First Congress, which provides for the deposit of 65% of any savings deposits

received by the Postal authorities with banks in the locality where the money is collected, against the pledge of "Public Bonds" and the Additional Circulation Act, or "Emergency Currency Act", as it is popularly called. This latter Act expires by its terms June 30, 1914, and is not likely to be re-enacted in its present form. It seems probable that either at the special Session of Congress, in session as we go to press, or at the regular Session of the Sixty-Third Congress, which convenes in December, an important revision of the National fiscal system will be made. The uncertainties attending this proposed legislation are so great, however, that we do not feel justified in postponing on its account the publication of this edition, containing the important recent amendments to the California Bank Act.

To the foregoing statutes are added extracts from the New York Savings Bank Law, defining the character of bonds which may be purchased and held by savings banks in that State, which are mutual institutions without capital stock rigidly restricted as to the character of their investments.

These extracts are included, first, because, on account of the importance and scientific character of the New York law, it is reasonable to expect a gradual development of bank laws in other states along the lines established in it, and second, because the prestige and market standing attaching to a bond which satisfies the requirements of the New York Savings Bank Law, is such as to make the question of whether or not securities conform to this law of importance to bankers generally.

This compilation has been made by our Statistical Department, which aims to keep on file, available for the inspection of bankers and other investors, official data relative to banking and investment matters. Upon request we shall gladly furnish detailed information as to the regulations of the National Treasury Department, the State Treasurer's office and the Banking Department of California, together with copies of all forms incident to dealing with these offices; also official statistics relative to the property and earnings of railroad and other quasi-public corporations, the assessed valuation and other essential facts regarding bond issuing municipalities.

June 20, 1913.

N. W. HALSEY & COMPANY.

Contents

	Page
Bank Act of California as Amended.....	9
Public Deposit Acts of California.....	103
Investment Companies Act of California.....	111
National Bank Act as Amended.....	121
Currency Act of March 14, 1900.....	207
Additional Circulation (Emergency Currency Act).....	217
Postal Savings Bank Act.....	231
Postal Savings Bonds (Information issued Jan. 1, 1913)...	239
New York Savings Bank Law.....	245
General Index	253

Bank Act of California.

AN ACT TO DEFINE AND REGULATE THE BUSINESS OF BANKING

ARTICLE I.

GENERAL PROVISIONS.

SECTION 1. This act shall be known as the "bank act," and shall be applicable to all corporations specified in the next section. *Title of act*

SEC. 2. The word "bank" as used in this act shall be construed to mean any incorporated banking institution which shall have been incorporated to conduct the business of receiving money on deposit, or transacting a trust business as hereinafter defined. The soliciting, receiving or accepting of money or its equivalent on deposit as a regular business shall be deemed to be doing a commercial or savings bank business whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass book, a note, a receipt or other writing; *provided*, that nothing herein shall apply to or include money or its equivalent left in escrow or left with an agent, pending investment in real estate or securities for or on account of his principal. It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking business within this state except by means of a corporation duly organized for such purpose. Banks are divided into the following classes: *Definition of "Bank."*

- (a) Savings banks;
- (b) Commercial banks; and
- (c) Trust companies.

Kinds of banks.

SEC. 3. Corporations may be formed by any number of natural persons, not less in any case than three, under the laws of this state to conduct, as provided in this act, and not otherwise, any one or more or all of the businesses mentioned in divisions (a), (b), and (c) of section two, of this act. *Formation of banks.*

Savings banks.

SEC. 4. The term "savings bank," when used in this act, means a bank organized for the purpose of accumulating and loaning the funds of its members, stockholders, and depositors, and which may loan and invest the funds thereof, receive deposits of money; loan, invest and collect the same with interest; and may repay depositors with or without interest, and having power to invest said funds in such property, securities and obligations as may be prescribed by this act; and to declare and pay dividends on its general deposits, and a stipulated rate of interest on deposits made for a stated period or upon special terms.

Commercial banks.

SEC. 5. The term "commercial bank," when used in this act, means any bank authorized by law to receive deposits of money, deal in commercial paper or to make loans thereon, and to lend money on real or personal property, and to discount bills, notes, or other commercial paper, and to buy and sell securities, gold and silver bullion, or foreign coins or bills of exchange.

Trust companies.

SEC. 6. The term "trust company," when used in this act, means any corporation which is incorporated under the laws of this state for the purpose of conducting the business of acting as executor, administrator, guardian of estates, assignee, receiver, depository or trustee under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law.

Foreign corporations.

SEC. 7. No foreign corporation shall transact a banking business in this state without first complying with all the requirements of the laws of this state relative to banks as defined in this act, and without having assigned to its business in this state the amount of paid-up capital and surplus required by this act for the transaction of such business within this state. No foreign banking corporation shall transact business in this state until such corporation has made the assignment of capital required by this section and has received a certificate from the state superintendent of banks. Any foreign banking corporation transacting business in this state shall become subject to the supervision of the state superintendent of banks. Every foreign banking corporation, including those which were on January second, nineteen hundred thirteen, transacting business in this state, which receives any deposits or transacts any other banking business or transacts its business in such a manner as might lead the

public to believe that its business is that of a bank, shall conduct all its business in accordance with the statutes governing incorporated banking institutions organized under the laws of this state. The capital of any such foreign banking corporation assigned to its business in this state and all funds and deposits of money received by any such corporation in this state or for or in connection with its business in this state and all accounts and transactions of said business transacted by any such foreign corporation in this state shall be kept separate and apart from the general business, assets and accounts of such foreign corporation in the same manner as if the business of such foreign corporation conducted within this state was that of a separate and independent corporation organized under the laws of this state for the purpose of doing a banking business and all of the provisions of this act affecting investments, loans of money, receiving deposits and conducting business in any respect shall be deemed to apply to such assigned capital, investments, loans, deposits, assets, funds and business in the same manner as if such assigned capital, investments, loans, deposits, assets, funds and business were that of such separate and independent corporation; *provided*, that loans may be made by any such foreign corporation based on its entire paid-up capital and surplus in case such foreign corporation shall have assigned to its business in this state a paid-up capital and surplus as above provided equal to 20 per centum of the deposit liability of such branch agency or office to residents of this state. Such funds and investments or loans thereof shall be appropriated solely to the security and payment of such deposits, and shall not be mingled with the investments of the capital stock or other money or property belonging to such corporation or be liable for the debts or obligations thereof. All income received from the investment of said funds over and above such funds as may be paid to depositors as interest or shall be carried to the surplus fund, as provided in section twenty-one of this act, shall accrue as profits to the corporation and may be transferred to its general funds. No such foreign corporation shall transact any banking business in this state until it has executed and filed with the superintendent of banks a written instrument appointing such superintendent or his successor in office, its true and lawful attorney, upon whom all process issued by authority of or under any law of this state may be served, with

the same effect as if such corporation was formed under the laws of this state and had been lawfully served with process therein. Such service upon such attorney shall be deemed personal service on such corporation. The superintendent of banks shall forthwith forward by mail, postage prepaid, a copy of every process served upon him under the provisions of this section, addressed to the manager or agent of such corporation, at its principal place of business in this state. For each copy of process, the superintendent of banks shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of the service, to be recovered by him as a part of his taxable costs if he succeed in the suit or proceeding. No foreign corporation shall have or exercise in this state the power to receive deposits of trust moneys, securities or other personal property from any person or corporation or any of the powers specified in section six of this act, nor have or maintain an office in this state for the transaction of, or transact, directly or indirectly, any such or similar business, except that a trust company incorporated in another state may be appointed and may accept appointment and may act in this state as executor of or trustee under the last will and testament of any deceased person, upon giving the bond required in such cases of individuals unless waived by the last will and testament making such appointment and by taking and subscribing an oath for faithful performance of such trust by the president, vice-president, secretary, manager or trust officer of said corporation; *provided*, that similar corporations organized under the laws of this state are permitted by law to act as such executor or trustee in the state where such foreign corporation was organized; *and provided, further*, that such superintendent of banks, for the time being, shall be the attorney of such foreign corporation qualifying or acting in this state as such executor or trustee, upon whom process against such foreign corporation may be served in any action or legal proceeding against such executor or trustee, affecting or relating to the estate or property represented or held by such executor or trustee, or any act or default of such foreign corporation in reference to such estate or property, and it shall be the duty of any such foreign corporation so qualifying or acting to file in the office of said superintendent of banks a copy of its articles of incorporation, or of the statute chartering such

corporation, certified by its secretary under its corporate seal, together with the post office address of its home office, and a duly executed appointment of said superintendent of banks as its attorney to accept service of process as above provided, and said superintendent of banks, when any such process is served upon him, shall at once mail the papers so served to the home office of such corporation; *and provided, further*, that no foreign corporation having authority to act as executor of or trustee under the last will and testament of any deceased person shall establish or maintain, directly or indirectly, any branch office or agency in this state, or shall in any way solicit, directly or indirectly, any business as executor or trustee therein, and that for any violation of this proviso, the court having jurisdiction of such executor or trustee in said proceeding may in its discretion, revoke the right of such foreign corporation thereafter to act as executor or trustee therein; *provided*, that nothing in this act shall limit or affect the right of any foreign corporation doing a banking business in this state, to lend within this state, moneys of such corporation which do not form a part of the moneys, deposits or assets of such corporation assigned or belonging to its business in this state.

SEC. 8. Every corporation, at the time it applies for a certificate of authority to do a banking business, must file with the superintendent of banks a certified copy of its articles of incorporation, or of the statute chartering such corporation, a certified copy of its by-laws, and also a certified copy of all instruments amending or altering such articles of incorporation or charter or by-laws. Thereafter a certified copy of each amendment or certificate shall likewise be so filed before such instrument takes effect. There must also be filed in the office of the superintendent of banks before he shall issue his certificate a certified copy of the affidavit required by section 290a of the Civil Code. Each certification required by the provisions of this section other than that of by-laws must be by the secretary of state. *Filing articles of incorporation and amendments.*

SEC. 9. No bank in this state, or any officer or director thereof, shall hereafter open or keep an office other than its principal place of business, without first having obtained the written approval of the superintendent of banks to the opening of such branch office, which written approval may be given or withheld in his discretion, *Branch banks.*

and shall not be given by him until he has ascertained to his satisfaction that the public convenience and advantage will be promoted by the opening of such branch office; *provided*, that no bank or any officer or director thereof, shall open or maintain any such branch office unless the capital of such bank, actually paid in, in cash, shall exceed the amount required by this act by the sum of twenty-five thousand dollars for each branch office opened and maintained. Every bank, before it opens a branch office, shall obtain the certificate of authority of the superintendent of banks for the opening of each of said branch offices. The applicant shall pay for such certificate a fee of fifty dollars; *provided, however*, that, in order to encourage saving among the children of the schools of this state, a bank may, with the written consent of and under regulations approved by the superintendent of banks and, in the case of public schools, by the board of education or board of school trustees of the city or district in which the school is situated, arrange for the collection of savings from the school children by the principal or teachers of such schools or by collectors. The principal, teacher or person authorized by the bank to make collections from the school children shall be deemed to be the agent of the bank and the bank shall be liable to the pupil for all deposits made with such principal, teacher or other person, the same as if the deposits were made by the pupil directly with the bank. Every bank and every such officer or director violating the provisions of this section shall forfeit to the people of the state the sum of one hundred dollars for every day during which any branch office hereafter opened shall be maintained without such written approval.

*Eligibility of
directors.*

SEC. 10. No person shall be eligible for election as director of a bank having a capital stock unless he is a stockholder of the bank, owning, in his own right, shares thereof of the par value of at least five hundred dollars; and every person elected to be director who, after such election, shall cease to be the owner in his own right of the amount of such stock aforesaid, or shall hypothecate or in any way pledge such stock as security for any loan or debt shall immediately notify the superintendent of banks in writing of such sale or hypothecation and such director may be removed from the office of director by the superintendent of banks. If a bank be organized without capital stock, no person shall be eligible as

a director thereof unless he is both a member and a depositor of such bank.

SEC. 11. The board of directors of a bank must hold a meeting at least once a month. Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such bank, and will not knowingly violate or wilfully permit to be violated any of the provisions of law applicable to such bank, and that he is the owner in good faith and in his own right of shares of stock of the par value required by section 10 of this act, subscribed by him or standing in his name on the books of the bank, and that the same to an amount equal to the par value of at least five hundred dollars, are not hypothecated or in any way pledged as security for any loan or debt. Such oath shall be subscribed by the director making it, certified by the officer before whom it is taken, and immediately transmitted to the superintendent of banks and filed and preserved in his office. *Directors' meeting.*

SEC. 12. No person, firm, company, copartnership or corporation, either domestic or foreign, not subject to the supervision of the superintendent of banks, and not required, by the provisions of this act, to report to him, and which has not received a certificate to do a banking business from the superintendent of banks, shall advertise that he or it is receiving or accepting money or savings, and issuing notes or certificates of deposit therefor, or shall make use of any office sign, at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank or trust company, or that deposits are received there or payments made on check, or any other form of banking business transacted, nor shall any such person or persons, firm, company, copartnership or corporation, domestic or foreign, make use of or circulate any letterheads, billheads, blank notes, blank receipts, certificates or circulars, or any written or printed, or partly written and partly printed, paper, whatever, having thereon any artificial or corporate name or other word or words indicating that such business is the business of a bank, savings bank or trust company; nor shall any such person, firm, company, copartnership or corporation, or any agent of a foreign corporation not having an established place of *Use of words indicating performance of banking business.*

business in this state, solicit or receive deposits or transact business in the way or manner of a bank, savings bank or trust company, or in such a way or manner as to lead the public to believe that its business is that of a bank, savings bank or trust company. Nor shall any person, firm, company, copartnership or corporation, domestic or foreign, not subject to the supervision of the superintendent of banks, and not required by the provisions of this act to report to him, and which has not received from the superintendent of banks a certificate to do a banking business, hereafter transact business under any name or title which contains the word "bank," or "banker," or "banking," or "savings bank," or "savings" or "trust" or "trustee" or "trust company"; *provided*, that this section shall not apply to the corporate name of any building and loan association now or heretofore doing business in this state; *and provided, further*, that any such association having in its corporate name words not clearly indicating the nature of its business shall, on all signs, letter heads and advertising matter, state "This is a building and loan association" or words to that effect; *and provided, further*, that any building and loan association may borrow money, issue investment certificates or evidences of indebtedness, stating the rate of interest and terms and conditions of repayment, and do such other business as may be authorized by the laws of the state relating to building and loan associations; *and provided, further*, that no such association shall advertise or hold itself out to the public as a savings bank. Any person, firm, company, copartnership or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state one hundred dollars a day for every day or part thereof during which such violation continues. Upon action brought by the superintendent of banks the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further using such words in violation of the provisions of this section or from further transacting business in such a way or manner as to lead the public to believe that its business is that of a bank, savings bank or trust company during the pendency of such action and for all time and may make such other order or decree as equity and justice may require.

SEC. 12a. Every person, firm, company, copartnership or corporation, domestic or foreign, advertising that he or it is receiving or accepting money or savings, and issuing notes or certificates of deposit therefor, or advertising that he or it is transacting the business of a bank, savings bank or trust company, or making use of any office sign at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank or trust company, or that deposits are received there or payments made on check, or that interest is paid on deposits, or that certificates of deposit, either with or without interest are being issued, or that any other form of banking business is transacted, and every person, firm, company, copartnership or corporation, domestic or foreign, making use of or circulating any letterheads, billheads, blank notes, blank receipts, certificates or circulars, or any written or printed, or partly written and partly printed, paper, whatever, having thereon any artificial or corporate name, or advertising that such business is the business of a bank, savings bank or trust company, must have the proper capital stock paid in and set aside for the purpose of transacting such business, and must have received from the superintendent of banks, as provided for in this act, a certificate to do a banking business. Any person, firm, company, copartnership or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state one hundred dollars a day for every day or part thereof during which such violation continues. Upon action brought by the superintendent of banks the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further violating any provision of this section, and may make such further order or decree as equity and justice may require. Every person, firm, company, copartnership or corporation doing any of the things or transacting any of the business defined in this section, must transact such business according to the provisions of the bank act, and the superintendent of banks or his deputy or examiners shall have authority to examine the accounts, books and papers of every such person, firm, company, copartnership or corporation, domestic or foreign, in order to ascertain whether such person, firm, company, copartnership or corporation has violated or is violating any provisions of this section; *provided*, that this section shall not apply *Banking business defined.*

to the corporate name of any building and loan association now or heretofore doing business in this state; *and provided, further*, that any such association having in its corporate name words not clearly indicating the nature of its business shall, on all signs, letterheads and advertising matter, state: "This is a building and loan association" or words to that effect; *and provided, further*, that any building and loan association may borrow money, issue investment certificates or evidences of indebtedness, stating the rate of interest and terms and conditions of repayment, and do such other business as may be authorized by the laws of the state relating to building and loan associations; *and provided, further*, that no such association shall advertise or hold itself out to the public as a savings bank.

Foreign corporations. SEC. 12b. Nothing in this act shall be construed or held to apply to any corporation organized under the laws of any other state which is authorized by its charter or articles of incorporation to transact the business of life insurance and also to be known as and to transact business as a trust company and which shall have complied with the laws of this state affecting the transaction in this state of the business of life insurance by a foreign corporation and which shall have heretofore engaged in such business of life insurance in this state, in such manner as to forbid or prevent its making use of its corporate title in its life insurance business in this state in any such way and to any such extent as it might have made use of the same if this act had not been passed.

Foreign corporations may lend money. SEC. 12c. Any corporation organized under the laws of any country or state other than this state which has complied with all of the laws of this state pertaining to foreign corporations and is not engaged in the business of banking or receiving money on deposit in this state may lend money in this state and, for that purpose, may maintain offices in this state, and sue and be sued in this state under its proper corporate name, notwithstanding any prohibitions contained in this act as to the use of any words in the name, signs or advertising matter of corporations not under the supervision of the superintendent of banks.

Section thirteen repealed 1913.

SEC. 14. No bank, or officer thereof, shall advertise in any manner, or publish any statement of the capital authorized or subscribed, unless it or he advertise and publish in connection therewith, the amount of capital actually paid up. No bank shall publish a statement of its resources or liabilities in connection with those of any other bank, unless such statement shall show the resources and liabilities of each bank separately; nor shall surplus and undivided profits be advertised as an aggregate. *Advertising statement of capital.*

SEC. 15. All amounts of money heretofore or hereafter deposited with any bank to the credit of depositors who have not made a deposit on said account or withdrawn any part thereof or the interest and which shall have remained unclaimed for more than twenty years after the date of such deposit, or withdrawal of any part of principal or interest, and for which no claimant is known or the depositor cannot be found, shall, with the increase and proceeds thereof, be deposited with the state treasurer in the same manner and subject to the same distribution as provided for in section one thousand two hundred thirty-four of the Code of Civil Procedure. The president or managing officer of every bank must, within fifteen days after the first day of January of every year, return to the superintendent of banks a sworn statement showing the names of depositors known to be dead, or who have not made further deposits, or withdrawn any moneys during the preceding twenty years and at the same time it shall be the duty of the president or managing officer of every bank to furnish to the state controller a list of the names of all depositors to whom said moneys belong or to whom said bank owes the same. Such statement shall show in detail the following matters, viz: *Report of deceased or unlocated depositors.*

First—The name and last known place of residence or postoffice address of the person making such deposit;

Second—The amount and date of such deposit and whether the same are in moneys or securities, and if the latter, the nature of the same;

Third—The interest due on such deposit, if any, and the amount thereof;

Fourth—The sum total of such deposit, together with the interest added thereto due from such bank on account of such deposit or

deposits and interest thereon to such depositor, but nothing contained herein shall require any corporation or person renting lock boxes or safes in vaults for storage purposes to open or report concerning property stored therein. Such report itemized as aforesaid shall be signed by the person making the same and shall be sworn to before a person competent to administer oaths as a full, complete and truthful statement of each of the items therein contained. The president or managing officer of every bank must, within fifteen days after the first day of January of every odd numbered year, return to the superintendent of banks a sworn statement showing the names of depositors known to be dead, or who have not made further deposits, or withdrawn any moneys during the preceding ten years. Such statements shall show the amount of the account, the depositor's last known place of residence or postoffice address, and the fact of death, if known to such president or managing officer. Such president or managing officer must give notice of these deposits in one or more newspapers published in or nearest to the town or city where such bank has its principal place of business, at least once a week for four consecutive weeks, the cost of such publication to be paid pro rata out of such unclaimed deposits. This section does not apply to any deposit made by or in the name of a person known to the president or managing officer to be living, or which, with the accumulation thereon, is less than fifty dollars. The superintendent of banks must incorporate in his subsequent report such returns made to him as provided in this section. If any president or managing officer of any bank neglects or refuses to make the sworn statement required by this section, such bank shall forfeit to the State of California the sum of one hundred dollars a day for each day such default shall continue. Any president or managing officer of any bank who violates any of the provisions of this section shall forfeit to the State of California the sum of one hundred dollars a day for each and every day such violation shall continue. For the purposes of this section all deposits received by any bank under the provisions of section thirty-one or section thirty-one *a* of this act shall be deemed to have been deposited with such bank at the time the deposit was made with the bank from which the deposit was transferred; *provided*, that any bank which shall make any deposit with the state treasurer

in conformity with the provisions of this section shall not thereafter be liable to any person for the same and any action which may be brought by any person against any bank for moneys so deposited with the state treasurer shall be defended by the attorney general without cost to such bank.

SEC. 16. When any deposit with a bank shall be made by or in the name of any married woman or minor, the same shall be held for the exclusive right and benefit of such depositor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends, if any, and interest, if any, thereon to the person in whose name deposits shall have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge for such deposit, or any part thereof, to the bank. When any deposit with a bank shall be made by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to such bank, in the event of the death of the trustee, the same or any part thereof, together with the dividends or interest, if any, thereon, may be paid to the person for whom the deposit was made. When a deposit with a bank shall be made by any person in the names of such depositor and another person or persons, and in form to be paid to either or the survivor or survivors of them, such deposit thereupon, and any additions thereto made by either of such persons upon the making thereof, shall become the property of such person as joint tenants, and the same, together with all interest thereon, shall be held for the exclusive use of the persons so named, and may be paid to either during the lifetime of all or any or to the survivor or survivors after the death of one or more of them, and such payments and the receipt or acquittance of the one to whom such payment is made shall be valid and sufficient release and discharge to said bank for all payments made on account of such deposit. The surviving husband or wife or the guardian of the estate of any insane or incompetent husband or wife of any deceased person, or, if no husband or wife is living, then the children or the guardian of the estates of any minor or insane or incompetent children of said decedent, or, if no children are living, then the father or mother or guardian of the estate of any insane or incompetent father or mother of such decedent, and if neither the father

Deposits in name of a married woman or minor.

Deposits in trust.

Joint accounts.

Payment of deposits of deceased persons to survivors.

or mother is living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death; *provided*, such deposit shall not exceed the sum of five hundred dollars. Any bank, upon receiving an affidavit stating that said depositor is dead, and that affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent surviving husband or wife, as the case may be, of said decedent, or stating that decedent left no husband or wife, and that affiant is, or affiants are, the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, of said decedent, or stating that decedent left neither husband, wife, nor children and that affiant is the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband, wife, children, father nor mother, and that affiants are the brothers and sisters or the guardians of the estates of the minor, insane or incompetent brothers and sisters, as the case may be, of said decedent, and that the whole amount that decedent left on deposit in any and all banks of deposit of this state, does not exceed the sum of five hundred dollars, may pay to said affiant or affiants, any deposit of said decedent, if the same does not exceed the sum of five hundred dollars, and the receipt of such affiant is sufficient acquittance therefor; *provided, however*, that whenever the affidavit herein mentioned is made by any guardian it shall be accompanied by a certified copy of the letters of guardianship issued to such guardian attached to a certificate of the clerk of the court having appointed such guardian to the effect that the said letters of guardianship have not been revoked.

*Information to
be kept on file
for stockholders.*

SEC. 17. Every bank now in existence or hereafter organized shall keep in its offices, in a place accessible to the stockholders, depositors, and creditors thereof, and for their use, a book containing a list of stockholders in such corporation, and the number of shares of stock held by each; and every such bank shall keep posted in its

office, in a conspicuous place, accessible to the public generally, a notice signed by the president or secretary, showing: *Information for the public.*

1. The names of the directors of such bank.
2. The number and the par value of the shares of stock held by each director.

The entries on such book and such notice shall be made and posted within twenty-four hours after any transfer of stock, and shall be prima facie evidence against each director and stockholder of the number of shares of stock held by each.

Section eighteen repealed 1913.

SEC. 19. The aggregate of paid-up capital, together with the surplus, of every commercial bank, must equal ten per centum of its deposit liabilities; such deposit liabilities shall not be increased when such proportion of paid-up capital and surplus is wanting, and in no event shall said paid-up capital be less than the minimum paid-up capital provided by this act; *provided, however,* that the aggregate of paid-up capital and surplus of every savings bank having a capital stock, and the reserve fund of every savings bank without a capital stock, must equal the following percentages of its deposit liabilities: *Relation of paid-up capital to deposit liabilities.*

(a) Ten per centum of any amount up to and including two million dollars.

(b) Seven and one-half per centum of any amount in excess of two million dollars up to and including five million dollars.

(c) Five per centum of any amount in excess of five million dollars up to and including fifteen million dollars.

(d) Two and one-half per centum of any amount in excess of fifteen million dollars up to and including forty million dollars.

(e) One per centum of any amount in excess of forty million dollars.

The deposits shall not be increased if such proportion of paid-up capital and surplus or reserve fund to deposit liabilities is not maintained.

Lawful SEC. 20. Every commercial bank receiving deposits as a
money depositary bank of other banks shall have at all times as its lawful
reserve. money reserve an amount equal to twenty per centum of the aggregate amount of its deposits. Two-fifths of such reserve shall be in its own keeping in lawful money of the United States, or gold certificates or silver certificates of the United States. The remaining three-fifths thereof may consist of moneys on deposit subject to call with any bank or banks in this state other than a savings bank; or one-half of such three-fifths or any less portion thereof may consist of moneys on deposit subject to call with any bank or banks in the cities of New York, Chicago or St. Louis, other than a savings bank, and the balance of such three-fifths, of moneys on deposit subject to call with any bank or banks in this state other than a savings bank. Every commercial bank not receiving deposits as a depositary bank of other banks shall have at all times as its lawful money reserve, an amount equal to fifteen per centum of the aggregate amount of its deposits. Two-fifths of such reserve shall be in its own keeping in lawful money of the United States, or gold certificates or silver certificates of the United States. The remaining three-fifths thereof may consist of moneys on deposit subject to call with any bank or banks in this state other than a savings bank; or, one-half of such three-fifths or any less portion thereof may consist of moneys on deposit subject to call with any bank or banks in the cities of New York, Chicago or St. Louis, other than a savings bank, and the balance of such three-fifths, of moneys on deposit subject to call with any bank or banks in this state other than a savings bank. If the lawful money reserve of any bank shall be less than the amount required by this section, such bank shall not increase
Insufficient its liabilities by making any new loans or discounts, otherwise than
money by discounting bills of exchange on sight, or by paying any dividends
reserve. from profits until the full amount of its lawful money reserve has been restored. The superintendent of banks may notify any bank whose lawful money reserve shall be below the amount herein required, to restore such reserve; and, if it shall fail for thirty days thereafter to restore such lawful money reserve, such bank shall be deemed insolvent and may be proceeded against under the provisions

of this act; *provided*, that all deposits of money herein permitted or required shall comply with the provisions of section forty-three of this act.

SEC. 21. The directors of any bank having a capital stock may, *Dividends.* at certain times, and in such manner as its by-laws prescribe, declare and pay dividends to depositors and stockholders of so much of the profits of the bank, and of the interest arising from the capital, surplus and deposits, as may be appropriated for that purpose under its by-laws or under its agreements with depositors, but every such bank shall, before the declaration of any such dividend, carry at least one-tenth part of the net profits of the stockholders for the preceding half year, or for such period as is covered by the dividend, to its surplus, until such surplus shall amount to twenty-five per centum of its paid-up capital stock. The whole or any part of such surplus, if held as the exclusive property of the stockholders, may at any time be converted into paid-in capital, in which event such surplus shall be restored in the manner above provided until it amounts to twenty-five per centum of the aggregate paid-up capital stock. Subject to the provisions of section nineteen of this act, any losses sustained by any such bank in excess of its undivided profits may be charged to and paid from its surplus, in which event such surplus shall be restored in the manner above provided, to the amount required by law; *provided, however*, that any bank which has invested any portion of its surplus in its bank premises, furniture and fixtures, vaults, or safe deposit vaults and boxes necessary or proper to carry on its banking business shall not be permitted to charge any loss to that portion of its surplus so invested. A larger surplus may be created and nothing herein contained shall be construed as prohibitory thereof. The capital and assets of any such bank are a security to depositors and stockholders, depositors having the priority of security over stockholders.

SEC. 21a. No bank, banker, or bank officer shall give preference to any depositor or creditor by pledging the assets of the bank as collateral security, except as otherwise authorized by law; *Pledging of assets.* *provided*, that any commercial bank, or commercial department of a departmental bank, may borrow money for temporary purposes, and

may pledge assets of said commercial bank, or commercial department of said departmental bank, not exceeding fifty per centum in excess of the amount borrowed, as collateral security therefor; *provided*, that any public moneys, or postal savings moneys, deposited with any such bank under any provision of law, shall not be construed as "borrowed money" within the meaning of this section. No bank shall at any time, without permission of the superintendent of banks, borrow an amount exceeding the amount of its paid-up capital stock and surplus at such time actually paid in and remaining undiminished by losses or otherwise. No bank shall make partial payments upon any certificate of deposit. In no case shall an overdraft of more than ninety days' standing be allowed as an asset of any bank. Any debt due to any commercial bank, on which interest is past due and unpaid for the period of one year, unless the same is well secured, and is in process of collection, shall be considered a bad debt and shall be charged off to the profit and loss account at the expiration of that time.

Department banks. SEC. 22. Any corporation authorized by its articles of incorporation so to do, may combine the business of a commercial bank and savings bank and trust company, or any one or more or all of them; *provided*, that no corporation authorized to transact a trust business and which is also organized to engage in the business of title insurance, shall engage in or combine the business of a commercial bank or savings bank.

Paid-up capital required. SEC. 23. When a bank desires to do a departmental business, it shall first obtain the consent of the superintendent of banks, and in its application therefor, file a statement making a segregation of its capital and surplus for each department. Such capital and surplus, when so apportioned and approved by the superintendent of banks, shall be considered and treated as the separate capital and surplus of such department as if each department was a separate bank. Thereafter a bank may, from time to time, with the previous consent and approval of the superintendent of banks and subject to the provisions of section nineteen of this act, change any segregation and apportionment of capital and surplus previously made and make a new segregation and apportionment of its capital and surplus.

Every bank hereafter organized doing a departmental business shall have paid up, in cash, capital stock as follows:

(a) In any locality in which the population does not exceed five thousand persons, not less than twenty-five thousand dollars if it transacts both a commercial and savings business, or not less than one hundred twenty-five thousand dollars, if it transacts both a commercial and trust business, or not less than one hundred twenty-five thousand dollars if it transacts both a savings and trust business, and not less than one hundred twenty-five thousand dollars if it transacts a commercial, savings and trust business.

(b) In any city in which the population is more than five thousand persons, but does not exceed twenty-five thousand persons, not less than fifty thousand dollars if it transacts both a commercial and savings business, or not less than one hundred fifty thousand dollars if it transacts both a commercial and trust business, or not less than one hundred fifty thousand dollars if it transacts both a savings and trust business, and not less than one hundred fifty thousand dollars if it transacts a commercial, savings and trust business.

(c) In any city in which the population is more than twenty-five thousand persons but does not exceed one hundred thousand persons, not less than one hundred thousand dollars, if it transacts both a commercial and savings business, or not less than two hundred thousand dollars if it transacts both a commercial and trust business, or not less than two hundred thousand dollars if it transacts both a savings and trust business, and not less than two hundred thousand dollars if it transacts a commercial, savings and trust business.

(d) In any city in which the population is more than one hundred thousand persons but does not exceed two hundred thousand persons, not less than two hundred thousand dollars, if it transacts both a commercial and savings business, or not less than four hundred thousand dollars if it transacts both a commercial and trust business, or not less than four hundred thousand dollars if it transacts both a savings and trust business, and not less than four hundred thousand dollars if it transacts a commercial, savings and trust business.

(e) In any city in which the population exceeds two hundred thousand persons, not less than three hundred thousand dollars, if it transacts both a commercial and savings business, or not less than five hundred thousand dollars if it transacts both a commercial and trust business, or not less than five hundred thousand dollars if it transacts both a savings and trust business, and not less than five hundred thousand dollars if it transacts a commercial, savings and trust business.

The foregoing classification shall not apply to any bank already in existence which has received from the superintendent of banks a certificate to do a banking business; nor to any bank the location of which shall have been included by annexation or consolidation within the limits of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to establish any new branch office, as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Such excepted banks may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception. The capital stock referred to herein shall be increased from time to time and to the same extent as provided for in section nineteen of this act. For the purposes of this act, the population shown and determined by the last preceding federal census, or any subsequent census compiled and certified under any law of this state, shall be deemed to be the population of any city in which any such bank is to be organized. If the principal place of business of any bank so organized is located outside of the corporate limits of any city, then the population of that portion of the judicial township in which said bank is to have its principal place of business, which is not included within the boundaries of any municipal corporation, as such population is shown and determined by such federal or subsequent official census, shall be the basis for classification under the provisions of this act.

SEC. 24. Every bank, before it commences to do business or before it opens a new department and commences to transact business in or under such new department, shall obtain the certificate of the superintendent of banks for the opening of each of the departments specified. Each certificate herein provided for shall be given when the superintendent shall, by the examination required by this act, have satisfied himself that the proper amount of cash has been paid in as capital and the provisions of this act complied with. The applicant shall pay for the certificate for each department a fee of fifty dollars.

Certificate of the superintendent of banks.

SEC. 25. Every bank shall maintain for each department a lawful money reserve equal in amount to that required by this act for the respective business conducted, and shall keep separate and distinct the lawful money reserve of any department from that of any other department; and all deposits made with other banks, whether temporary or otherwise, shall be assets of the respective departments by which they were made, and shall be so carried on the books of such other banks, and shall be repaid only upon the order of the department to whose credit they stand. No department shall receive deposits of any other department of the same corporation; except that a trust department may make deposits of trust or any other funds under its control with the commercial or savings department of the same corporation; *provided, however,* that any bank having departments shall have the right to sell and transfer any bonds, securities or loans from one department to another upon receipt of the actual value thereof, if such bonds, securities or loans are, under the provisions of this act, a legal investment for the department purchasing the same.

Lawful money reserve required for each department. Relations of departments.

Deposits.

SEC. 26. Every bank having different departments shall keep separate books of account for each department of its business, and shall be governed as to all deposits, reserves, investments, and transactions relating to each department by the provisions in this act specifically provided for the respective kind of business.

Separate books.

It shall keep all investments relating to the savings department entirely separate and apart from the investments of its other department or departments.

Separate investments.

Separate cash securities and property. Every bank shall conduct the business of all its departments in one building, or in adjoining buildings, and shall keep entirely separate and apart in each department the cash, securities and property belonging to such department, and shall not mingle the cash, securities and property of one department with that of another.

Assets of each department. SEC. 27. All money and assets belonging to each department, whether on hand or with other banks, and the investments made, shall be held solely for the repayment of the depositors and other claimants of each such department, as herein provided, until all depositors and other claimants of each such department shall have been paid, and the overplus then remaining shall be applied to any other liabilities of such bank.

Kind of banking business transacted must be advertised. SEC. 28. Every bank in this state must, on all its window signs and in advertising, and on letterheads and other stationery on which its business is transacted, use the word "savings" if it conducts a savings business, or the word "trust" if it conducts a trust business, and the word "commercial" if it conducts a commercial business.

Steps necessary to convert a banking corporation without capital stock into a stock corporation. SEC. 29. Every corporation heretofore created under the laws of this state, doing a banking business therein, and which has no capital stock, may elect to have a capital stock, and may issue certificates of stock therefor, in the same manner as corporations formed under the provisions of part IV, title 1, chapter I, article I, of the Civil Code, relating to the formation of corporations; *provided*, that no such corporation shall use or convert any moneys or funds theretofore belonging to it, or under its control, into capital stock; but such funds or moneys must be held and managed only for the purposes and in the manner for which they were created. Before such change is made, a majority of the members of such corporation present at a meeting called for the purpose of considering the proposition whether it is best to have a capital stock, its amount, and the number of shares into which it shall be divided, must vote in favor of having a capital stock, fix the amount thereof, and the number of shares into which it shall be divided. Notice of the time and place of holding such meeting, and its object, must be given by the president of such corporation by mailing notice of such

meeting to each member of such corporation at his last known post office address at least ten days prior to the day fixed for such meeting, and by publication in some newspaper printed and published in the county, or city and county, in which the principal place of business of the corporation is situated, at least once a week for three successive weeks prior to the holding of the meeting. A copy of the proceedings of this meeting, giving the number of persons present, the votes taken, the notice calling the meeting, the proof of its publication, the amount of capital actually subscribed, and by whom, all duly certified by the president and secretary of the corporation, must be filed in the office of the secretary of state and clerk of the county where the articles of incorporation are filed. Thereafter such corporation is possessed of all the rights and powers, and is subject to all the obligations, restrictions and limitations, as if it had been originally created with a capital stock.

SEC. 30. Any bank may conduct a safe deposit department, but shall not invest more than one-tenth of its capital and surplus in such safe deposit department. *Safe deposit department.*

SEC. 31. Any bank may sell the whole of its business or the whole of the business of any of its departments to any other bank which may purchase such business after obtaining the consent of the stockholders of the selling and of the purchasing banks holding of record at least two-thirds of the issued capital stock of each of such corporations; such consent to be expressed either in writing executed and acknowledged by such stockholders and attached to the instrument of sale, or to a copy thereof, or by vote at a stockholders' meeting of each of such banks called for that purpose. The selling and purchasing banks must for such purposes enter into an agreement of sale and purchase, which agreement shall contain all the terms and conditions connected with such sale and purchase. Such agreement shall contain proper provision for the payment of liabilities of the selling bank or of the department sold, and in this particular shall be subject to the approval of the superintendent of banks; and shall not be valid until such approval is obtained. Such agreement may contain provisions for the transfer of all deposits to the purchasing bank, subject, however, to the right of every depositor of the selling bank to withdraw his deposit in full on demand after *Sale or purchase of assets of banks.*

such transfer, irrespective of the terms under which it was deposited with the selling bank. The rights of creditors of the selling bank shall not in any manner be impaired by any such sale, nor shall any liability or obligation for the payment of any money due or to become due, or any claim or demand, in any manner, or for any cause existing against such selling bank or against any stockholder thereof, be in any manner released or impaired, and all the rights, obligations, and relations of all the parties, creditors, depositors, trustees and beneficiaries of trusts shall remain unimpaired by the sale, but such bank to which the other shall sell all its business or all the business of any of its departments, shall succeed to all such relations, obligations, trusts, and liabilities and be held liable to pay and discharge all such debts and liabilities and to perform all such trusts of the selling bank in the same manner as if such bank to which the other had sold had itself incurred the obligation or liability or assumed the relation of trust, and the stockholders of the respective corporations so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them as such at or before such sale. Immediately after the execution of such agreement of sale and purchase notice thereof shall be published for at least four successive weeks in a newspaper in each of the counties of the state in which either of such banks shall have its principal place of business; *provided, however*, that no action can be brought against such selling bank or any of its stockholders on account of any deposits so transferred after the expiration of one year from the last day of publication herein required. An affidavit showing such publication shall be filed in the office of the superintendent of banks within ten days after the last publication thereof. The affairs of such selling bank, or selling department of a bank, shall remain subject to the provisions of this act.

Agreement of sale and purchase. SEC. 31 a. Any bank incorporated under the laws of this state may consolidate with one or more banks incorporated under the laws of this state, its capital stock, properties, trusts, claims, demands, contracts, agreements, obligations, debts, liabilities and assets of every kind and description, upon such terms and in such manner as may be agreed upon by their respective boards of directors, a copy of which agreement must be filed in the office of the superintendent

of banks; *provided*, that such agreement shall be subject to the *Provisions of* approval of the superintendent of banks and shall not be valid until *agreement.* such approval be obtained; *provided, further*, that no such consolidation shall take effect until such agreement shall have been ratified and confirmed in writing by the stockholders of the respective banks holding of record at least two-thirds of the issued capital stock of their respective banks, or such agreement may be submitted to the stockholders of each of such corporations at a meeting thereof to be called upon notice specifying the time, place and object thereof, addressed to each stockholder at his last known post office address and deposited in the post office, postage prepaid, at least two weeks prior to the date fixed for said meeting, and published for at least two successive weeks, prior to the date of said meeting, in a newspaper in each of the counties of the state in which any of such banks shall have its principal place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders separately by the vote or ballot of the stockholders owning at least two-thirds of the stock of each such bank, the same shall be the agreement of such banks. In case of such consolidation "articles of incorporation and consolidation" must be prepared, setting forth:

First. The name of the new corporation;

Name.

Second. The purpose for which it is formed;

Purpose.

Third. The place where its principal business is to be transacted;

Place.

Fourth. The term for which it is to exist, which shall not exceed fifty years;

Fifth. The number of its directors (which shall not be less than three) and the names and residences of the persons appointed to act as such until their successors are elected and qualified;

Number of directors.

Sixth. The amount of its capital stock and the number of shares into which it is divided;

Amount of capital.

Seventh. The amount of stock actually subscribed, and by whom;

Eighth. The names of the constituent corporations.

Said articles of incorporation and consolidation must be signed and countersigned by the president and secretary of each constituent corporation and sealed with their corporate seals. There must be

Instructions for incorporation and consolidation.

annexed thereto the approval of the superintendent of banks and memoranda of the ratification and confirmation thereof by the stockholders of each constituent corporation, which must be respectively signed and acknowledged by stockholders representing at least two-thirds of the capital stock of their respective corporations. When completed as aforesaid said articles must be filed in the office of the county clerk of the county in which is located the principal place of business of the new corporation, and a copy of the articles of incorporation and consolidation certified by such county clerk must be filed in the office of the secretary of state, and a copy of the articles of incorporation and consolidation certified by said secretary of state must be filed in the office of the superintendent of banks, and also in the office of the county clerk of any county in which were filed the original articles of incorporation of either of the constituent corporations, and thereupon each constituent corporation named therein must be deemed and held to have become extinct in all courts and places, and said new corporation must be deemed and held in all courts and places to have succeeded to all their several capital stocks, properties, trusts, claims, demands, contracts, agreements, assets, choses and rights in action of every kind and description, both at law and in equity, and to be entitled to possess, enjoy, and enforce the same and every thereof, as fully and completely as either and every of its constituents might have done had no consolidation taken place. Said consolidated or new corporation must also, in all courts and places, be deemed and held to have become subrogated to its several constituents and each thereof, in respect to all their contracts and agreements with other parties, and all their debts, obligations, and liabilities, of every kind and nature, to any persons, corporations, or bodies politic, whomsoever, or whatsoever, and said new corporation must sue and be sued in its own name in any and every case in which any or either of its constituents might have sued or might have been sued at law or in equity had no such consolidation been made. Nothing in this section contained shall be construed to impair the obligation of any contract to which any of such constituents were parties at the date of such consolidation. All such contracts may be enforced by action or suit, as the case may be, against the consolidated corporation, and satisfaction obtained out of the property which, at the date of the consolidation, belonged

to the constituent which was a party to the contract in action or suit, as well as out of any other property belonging to the consolidated corporation, and the stockholders of each constituent corporation so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them at or before such consolidation to the same extent as if the same had not been made. The right of said new corporation to increase or decrease its capital stock, to change the number of its directors, to amend its articles of incorporation, to change its principal place of business, or its name, or to effect any other organic change shall be governed by the general corporation laws of this state and by the bank act, and the procedure to effect any such change shall be that defined by the general corporation laws and the bank act.

SEC. 32. Any bank receiving trust funds in accordance with the provisions of this act relating to trust companies must not mingle such trust funds with the other assets of the corporation, except as otherwise provided in section twenty-five of this act, and such funds shall not be carried or counted as any part of the lawful money reserve provided for in this act. The officers of any bank who knowingly violate or consent to the violation of this provision shall be guilty of a felony. *Trust funds must be kept separate.*

Section thirty-three repealed 1913.

SEC. 34. No bank shall purchase or invest its capital or surplus or money of its depositors, or any part of either, in shares of its own capital stock; nor loan its capital or surplus or the money of its depositors, or any part of either, on shares of its own capital stock, unless such purchase or loan shall be necessary to prevent loss to such bank on debts previously contracted in good faith. Every person or corporation violating any provision of this section shall forfeit to the people of the state twice the nominal amount of such stock. *No bank may invest in or loan on shares of its own capital stock.*

SEC. 35. No director, or officer, or employee, or controlling stockholder of any bank shall, directly or indirectly, for his own account, for himself, or as the partner or agent of others, sell or transfer, or cause to be sold or transferred to the bank of which he is a director, officer, employee, or controlling stockholder, any *Transactions between a bank and its directors, officers or employees.*

note or bond secured by any mortgage or trust deed on real estate or any contract arising from the sale of real estate in which such director, or officer, or employee, or controlling stockholder is personally or financially interested, without the consent in writing of the superintendent of banks. Any director, or officer, or employee, or controlling stockholder of any bank who knowingly violates or consents to the violation of this provision shall be guilty of a felony.

Limitation of bond purchase or underwriting. SEC. 36. No bank receiving deposits of money shall purchase, agree to purchase, underwrite or guarantee any bond issue in excess of five per centum of its assets, except bonds of the United States, of the State of California, of the cities, cities and counties, counties or school districts of this state.

Investment in stocks prohibited. SEC. 37. No bank shall purchase or invest its capital or surplus or money of its depositors, or any part of either, in the capital stock of any corporation unless the purchase or acquisition of such capital stock shall be necessary to prevent loss to the bank on a debt previously contracted in good faith. Any capital stock so purchased or acquired shall be sold by such bank within six months thereafter if it can be sold for the amount of the claim of such bank against it; and all capital stock thus purchased or acquired must be sold for the best price obtainable by said bank within one year after such purchase or acquisition. Every person or corporation violating any provision of this section shall forfeit to the people of the state twice the nominal amount of such stock.

False entries. SEC. 38. A director, officer, agent or employee of any bank who,

First—Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in its books and accounts; or,

Second—Concurs in omitting to make any material entry thereof; or,

Third—Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition containing any material statement which is false; or,

Fourth—Having the custody or control of its books, wilfully refuses or neglects to make any proper entry in the books of such corporation as required by law, or to exhibit or allow the same to be inspected and extracts to be taken therefrom by the superintendent of banks, his chief deputy, or any of his examiners, shall be guilty of a felony.

SEC. 39. Any officer, director, agent, teller, clerk or employee of any bank who either,

Overdrafts by persons connected with bank prohibited.

First—Knowingly overdraws his account with such bank, and thereby obtains the money, notes or funds of any such bank; or,

Second—Asks or receives or consents or agrees to receive any commissions, emolument, gratuity or reward, or any money, property or thing of value, for his own personal benefit, or of personal advantage, for procuring or endeavoring to procure for any person, firm or corporation any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange, by such bank, or for permitting any person, firm or corporation to overdraw any account with such bank, is guilty of a felony.

SEC. 40. No bank mentioned in this act shall make any contract with any of its depositors whereby the stockholders' liability provided for by the constitution of this state is in any manner waived, and if any such contract shall be so made, such contract shall be void.

Stockholders' liability cannot be waived.

SEC. 41. No officer, director, agent, or other employee of any bank shall directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase, of any obligation of said bank for a less sum than shall appear upon the face of such obligation to be the value thereof. Every person violating any provision of this section, shall for each offense forfeit to the people of the state, three times the face value of any such obligation so purchased.

Purchase of obligations of banks by directors.

SEC. 42. No officer, director, agent or other employee of any bank, shall directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of the assets of said bank for a less sum than the current market value thereof. Every person violating any provision of this section, shall for each

Purchase of assets of bank by directors, etc.

offense, forfeit to the people of the state, twice the nominal amount of any such assets so purchased.

Deposits with other banks must be authorized by disinterested directors. SEC. 43. No bank shall deposit any of its funds in any other bank unless such other bank has been designated as a depository for its funds by the vote of a majority of the directors or trustees of the bank making the deposit, exclusive of the vote of any director who is an officer, director, or trustee of the depository so designated; *provided, however,* that any bank may designate any other bank its depository by vote of a majority of its directors, including the vote of any director or trustee who is an officer, director or trustee of the depository so designated, if such bank has secured the previous approval of the superintendent of banks, which approval he may at any time revoke for proper cause.

Loans secured by stocks of other banks. SEC. 44. No bank shall hereafter make a loan secured by the stock of another bank, if by making such loan the total stock of such other bank held by such loaning bank as collateral will exceed in the aggregate twenty-five per centum of the capital stock of such other bank; *provided,* that no loan upon the capital stock of any bank shall be made unless such bank has been in existence at least two years and has earned and paid a dividend upon its capital stock; *and provided, further,* that no bank may loan more than five per centum of its assets upon the capital stock of any corporation whatsoever as collateral security.

Unpaid interest. SEC. 45. Interest unpaid, although due or accrued, on debts owing to any bank, shall not be included in calculation of its profits previous to a dividend.

Limitation of investment in bonds. SEC. 46. No bank shall invest or loan more than five per centum of its assets in any one bond issue, except bonds of the United States, of the State of California, of the counties, cities and counties, cities or school districts of this state.

Loans on real estate must be a first lien. SEC. 47. No commercial bank shall, except for the purpose of facilitating the sale of property owned by the bank, make any loan on the security of real estate, unless it is a first lien and is either

(1.) Made for a period of time not exceeding six months and upon security worth fifteen per centum more than the market value of the real estate taken as security; or

(2.) Made for a period of time exceeding six months and not exceeding ten years and does not exceed sixty per centum of the market value of the real estate taken as security.

No commercial bank shall loan in the aggregate more than thirty-five per centum of its assets on real estate loans of the character specified in subdivision two of this section. These provisions, however, shall not prevent any bank from taking another and immediately subsequent mortgage or deed of trust thereon when it already holds a first mortgage or deed of trust on such real estate, nor from accepting a second lien on real estate to secure the repayment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith when, in the judgment of the directors of such bank, such subsequent liens are necessary further to secure the payment of any debts and save such bank from loss.

SEC. 48. Any national bank in this state receiving the deposits of any bank organized and conducting business under this act, must at the request of the superintendent of banks, submit to an examination by him, or his duly appointed examiners, should the superintendent of banks in his discretion deem it necessary or desirable that such examination be made; and the expense of such examination shall be paid by such national bank; and if any such national bank shall refuse to permit such examination to be made by, or under the direction of the superintendent of banks, then the superintendent of banks shall notify in writing every bank depositing its funds with such national bank, to withdraw its deposits therefrom, and all such banks shall comply with such order.

Examinations of National banks receiving deposits of State banks.

SEC. 49. It shall not be lawful for any commercial bank, individual, trust company, association, firm, stock company, co-partnership or corporation to advertise or put forth a sign as a savings bank, either directly or indirectly or in any way to solicit or receive deposits or to transact business in the way or manner of a savings bank, or advertise that he or it is receiving or accepting savings, or in any way which might lead the public to believe that such deposits are received or invested under the same conditions or in the same manner as deposits in savings banks, except in the

Only "Savings" Banks" may solicit or receive savings deposits.

case of savings banks or banks having savings departments, subject to the provisions of this act. Any commercial bank, individual, trust company, association, firm, stock company, copartnership or corporation, violating any provision of this section shall forfeit to this state one hundred dollars a day for every day during which such violation continues.

Posting of certificate. SEC. 50. Every bank shall post in a conspicuous place in its banking room or branch office the last certificate obtained from the superintendent of banks under the provisions of either section nine or one hundred twenty-seven of this act.

Deposits by court officers or trustees. SEC. 51. Any court having appointed and having jurisdiction of any executor, administrator, guardian, assignee, receiver, depositary or trustee, upon the application of such executor, administrator, guardian, assignee, receiver, depositary or trustee, or upon the application of any person having an interest in the estate administered upon by such officer or trustee, after notice to other parties in interest as the court may direct, and after a hearing upon such application, may authorize such officer or trustee to deposit any money then in his hands as such officer or trustee or which may thereafter come into his hands, and until the further order of the court, in any bank organized under the laws of the State of California; and upon such deposit being made, the officer or trustee so depositing the same shall thereafter and while such moneys remain on deposit in such bank, be relieved and discharged from all liability and responsibility therefor, and the bond required of such officer or trustee given upon his appointment shall be thereupon by said court reduced to such an amount as the court may deem reasonable; such deposit shall be repaid only upon the orders of said court, and shall be a preferred claim against such bank and be paid in full before any other depositor of such bank shall have been paid.

Certified checks. SEC. 52. Whenever a check drawn on any bank is certified by any officer or employee of such bank, the amount thereof shall be immediately charged against the account of the person, firm or corporation drawing the same.

It shall be unlawful for any officer or employee of any bank to certify any check drawn upon such bank unless the person, firm or

corporation drawing the check has on deposit with the bank at the time such check is certified, an amount of money subject to the payment of such check, equal to the amount specified in such check.

Any officer or employee of any bank who shall wilfully violate the provisions of this section, or shall resort to any device, or receive any fictitious obligations, directly or indirectly, in order to evade the provisions hereof, or who shall certify checks before the amount thereof shall have been regularly entered to the credit of the drawer, shall be guilty of a felony.

SEC. 53. The capital stock of any bank having a capital stock shall have a par value of at least one hundred dollars and the paid-up value shall be endorsed on the face of each certificate issued, which paid-up value shall be the same on all certificates issued. No bank shall have preferred stock.

Certificates of capital stock.

SEC. 54. All real estate purchased by any bank at sales under pledges, mortgages or deeds of trust for its benefit for money loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon and all other real estate owned or held by it, which is not necessary for carrying on its business, must be sold by such bank within five years after title thereto shall have vested in it by purchase or otherwise. Parcels of such real estate not sold within said time may be purchased by any person wanting the same upon the conditions and proceedings following: The intending purchaser may file a petition in the superior court in and for the county wherein said real estate or any portion thereof is situated; upon the filing of such petition a citation shall be issued out of said court directed to the bank owning such real estate requiring such bank to show cause on a day certain which shall be not earlier than ten days after the service of such citation, why commissioners should not be appointed by said court for the purpose of appraising the value of the real estate described in the petition and of selling the same at public auction under the provisions of this section. If there shall be any liens or encumbrances of record against such real estate the person or persons holding such liens or encumbrances shall likewise be cited and the court shall in its final decree distribute the proceeds of such sale, if a sale thereof shall be

Real estate purchased by bank at foreclosure.

*Notice of
sale.*

made, according to the equities of the parties. If it shall appear at the hearing of such petition that the real estate therein sought to be purchased is held by such bank in violation of the provisions of this section or of the constitution of this state, the court shall appoint three commissioners to appraise the value thereof and sell the same at public auction at the county seat of the county wherein said real estate or any part thereof is located. Notice of which said sale shall be given to the bank owning said real estate and to any other persons interested therein as shown by the records of such county at least ten days before the date of such sale and shall be published once a week for three successive weeks in some newspaper published in the county where such real estate or any part thereof may be located or if no newspaper shall be published in such county then in a newspaper published in some neighboring county. Such notice shall state the time and place of such sale and shall describe the real estate to be sold with common certainty and state the value thereof as fixed by the appraisement of such commissioners and state that no bid less than such appraised value will be received therefor. No sale shall be made for an amount less than the appraised value of such real estate fixed by said commissioners and in the event that no bid is received at such sale at least equal to said appraised value of said real estate no intending purchaser can institute the proceedings provided for in this section within one year thereafter. In case of any sale made under the provisions of this section and of the refusal of any bank owning such real estate or of any lienholder or encumbrancer to execute the conveyances or releases necessary or proper to vest the title of such bank, lienholder or encumbrancer in the purchaser thereof the court shall have power in such proceedings to direct said commissioners to execute such deeds, conveyances or releases upon the payment to them of the purchase price therefor. The fees of such commissioners and cost of sale shall be fixed by the court, upon making such appointment but the entire expense thereof shall not exceed one hundred dollars. The cost of any such proceedings shall be borne by the intending purchaser if no sale shall be made but if a sale shall be made the costs of such proceedings shall be borne by the purchaser of the property and the person who filed the petition and advanced the costs of such

proceedings shall be reimbursed in case he shall not become such purchaser. All sales hereunder shall be returned to the court having jurisdiction of the matter in the same manner as in the case of sales, by commissioners, of real estate on foreclosure of mortgages. Nothing in this section contained shall be deemed to affect the power of the superintendent of banks to require the writing down of the value of real estate held by any bank, at any time, when such writing down shall be proper.

SEC. 55. Receiving deposits, issuing certificates of deposit, checks and bills of exchange, and the like, in the transaction of the ordinary business of a bank, must not be construed to be the creation of debt within the meaning of the phrase "create debt" in section three hundred nine of the Civil Code, nor of indebtedness within the meaning of the phrase "the capital stock cannot be diminished to an amount less than the indebtedness of the corporation" in section three hundred fifty-nine of the Civil Code, except that no bank shall reduce its capital stock to an amount less than is required by this act to be maintained by such bank, or less than any indebtedness of such bank other than such deposits. *Certificates of deposit, checks, bills of exchange, etc.*

The terms "real estate," or "real property," or "personal property," when used in this act shall have the meaning defined in, and shall be construed in accordance with the provisions of Title I of Part I of Division Second of the Civil Code.

SEC. 56. Any bank organized and existing under the laws of this state is hereby authorized and empowered to join or associate itself with any "National Reserve Association of the United States" or branch thereof, or any plan now or hereafter created or established by act of Congress whether such banking or currency association or plan be created by Congress under the above or any other name. Nothing in this act shall prohibit any such bank from joining or associating itself with any such association or plan or branch thereof nor from investing any part of its capital or surplus in the stock of such association, plan or branch thereof in accordance with the terms and provisions of such act of Congress; *"National Reserve Association of the U. S."* *provided, however,* that such investment shall in no case exceed the minimum amount required to join or associate itself with such

association, plan or branch thereof. Any bank joining or associating itself with such association, plan or branch thereof, shall be permitted to conform to and transact its business in accordance with the terms and provisions of such act of Congress creating the same and the rules and regulations of such association, plan or branch thereof, anything in this act to the contrary notwithstanding.

ARTICLE II.

SAVINGS BANKS.

Capital stock. SEC. 60. Every savings bank hereafter organized must have paid up in cash a capital stock of not less than

(a) Twenty-five thousand dollars if its principal place of business is located in any locality the population of which does not exceed five thousand persons;

(b) Fifty thousand dollars if its principal place of business is located in any city the population of which is more than five thousand persons, but does not exceed twenty-five thousand persons;

(c) One hundred thousand dollars if its principal place of business is located in any city the population of which is more than twenty-five thousand persons but does not exceed one hundred thousand persons;

(d) Two hundred thousand dollars if its principal place of business is located in any city the population of which is more than one hundred thousand persons but does not exceed two hundred thousand persons;

(e) Three hundred thousand dollars if its principal place of business is located in any city the population of which is more than two hundred thousand persons.

Excepting that any savings bank organized without capital stock must have a reserve fund of at least one million dollars. Until the capital stock or reserve fund hereinbefore required shall be actually paid in, the superintendent of banks shall refuse to issue the certificate required by this act. The foregoing classification shall not apply to any savings bank already in existence which has received its certificate to do a banking business from the superintendent of banks; nor to any bank the location of which shall have been included by annexation or consolidation within the limits

of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to establish any new branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Such excepted banks may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception; *provided*, that nothing herein shall be construed to affect the provisions of section nineteen of this act relative to the proportion of capital and surplus to deposits or of section twenty-three of this act relative to the capital stock required of banks doing a departmental business. The provisions of section twenty-three of this act, as to population, shall apply to any bank organized under the provisions of this section.

SEC. 61. Any savings bank may purchase, hold and convey real or personal property as follows:

1. The lot and building in which the business of the bank is carried on; furniture and fixtures, vaults and safe deposit vaults and boxes necessary or proper to carry on its banking business; such lot and building, furniture and fixtures, vaults and safe deposit vaults and boxes shall not, in the aggregate, be carried on the books of such bank as an asset to an amount exceeding its paid-up capital and surplus; and hereafter, the authority of a two-thirds vote of all of the directors shall be necessary to authorize the purchase of such lot and building, or the construction of such building.
Real and personal property which may be purchased, held or conveyed.
Lot and building.
2. Such as may have been mortgaged, pledged or conveyed to it in trust for its benefit in good faith, for money loaned in pursuance of the regular business of the corporation.
Purchased under pledges.
3. Such as may have been purchased at any sales under pledge, mortgage or deed of trust made for its benefit for money so loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon. No savings bank shall purchase, own, or sell personal property, except such as may be requisite for its immediate accommodation for the convenient
Restrictions.

transaction of its business, notes or bonds secured by trust deeds or mortgages on real estate, bonds, securities or evidences of indebtedness, public or private, gold or silver bullion and United States mint certificates of ascertained value, and evidences of debt issued by the United States. No savings bank shall purchase, own, hold or convey bonds, securities or evidences of indebtedness, public or private, except as follows:

U. S. Bonds. (a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest;

State of California Bonds. (b) Bonds of this state, or those for which the faith and credit of the State of California are pledged for the payment of principal and interest;

State Bonds. (c) Bonds of any state in the United States that has not, within five years previous to making such investment by such bank, defaulted in the payment of any part of either principal or interest;

County, city and county, and school districts of California. (d) Bonds of any county, city and county, city or school district of this state; bonds of any permanent road division in any county issued in pursuance of the provisions of article IX, chapter II, title VI, part III of the Political Code; bonds of any sewer district, drainage district, reclamation district, protection district, or sanitary district organized under the laws of this state; and any irrigation district bonds which the law may now or hereafter authorize to be used as security for the deposit of public moneys; *provided*, that the total amount of bonds so issued by any such sewer district, drainage district, protection district, or sanitary district, does not exceed fifteen per centum of the value of the taxable property in said district as shown by the last equalized assessment roll of the county in which said district is located; *and provided, further*, that the total amount of bonds issued by any such irrigation district does not exceed sixty per centum of the aggregate market value of the lands within such district, and of the water, water rights, canals, reservoirs, reservoir

sites and irrigation works owned or to be acquired or constructed with the proceeds of any of such bonds, by said district, such facts in reference to bonds of irrigation districts to be determined by a commission now or hereafter authorized by law to ascertain and report upon such facts.

(e) Bonds of any county, city and county, city or town, in any state of the United States other than the State of California, issued under authority of any law of such state, which county, city and county, city or town, had, as shown by the federal or state census next preceding such investment, a population of more than twenty thousand inhabitants; *provided, however,* that the entire bonded indebtedness of such county, city and county, city or town, including such issue of bonds does not exceed fifteen per centum of the value of the taxable property therein as shown by its last equalized assessment roll, and *provided, further,* that such county, city and county, city or town, or the state in which it is located has not defaulted in payment of either principal or interest due upon any legally authorized bond issue within five years next preceding such investment. *County, city and county, city or town in any state of the U. S. other than California.*

(f) (1) Bonds of any railroad corporation incorporated under the laws of the State of California and operating exclusively therein, provided said corporation has had, for its fiscal year next preceding such investment, net earnings, after payment of all maintenance charges, operating expenses and taxes sufficient to pay the interest on all of its outstanding mortgage indebtedness; or *Bonds of R. R.'s operating exclusively in California.*

(2) Bonds of any railroad corporation incorporated under the laws of any other state in the United States, operating at least five hundred miles of standard gauge track exclusive of sidings; *provided,* said corporation has had for its fiscal year next preceding such investment, net earnings, after the payment of all maintenance charges, operating expenses and taxes, amounting to at least one and one half times the interest on all its outstanding mortgage indebtedness; or *Bonds of R. R.'s operating in other states.*

(3) Bonds of any railroad corporation, the payment of which has been guaranteed, both as to principal and interest, by a railroad corporation meeting the requirements of either subdivision (1) or (2) of paragraph (f) of this section; the income of which latter corporation, together with the income of any corporation whose bonds it has guaranteed, shall have been sufficient to pay all its maintenance charges, operating expenses, taxes and interest on all its outstanding mortgage indebtedness and, in addition thereto, interest on the total outstanding mortgage indebtedness of any other corporation the payment of which it has guaranteed, for the periods specified in the respective subdivisions of this paragraph relating thereto; *provided*, that the excess of income of any corporation whose bonds have been so guaranteed, over its maintenance charges, operating expenses, taxes and interest on its outstanding mortgage indebtedness, shall not apply to or be included in determining the income so required. In determining the income of any corporation specified in paragraph (f) of subdivision three of this section, there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation or corporations, the entire business and income producing property of which the corporation issuing such bonds has wholly acquired. All bonds authorized for investment by paragraph (f) of subdivision three of this section must be secured by a mortgage or trust deed which is at the time of making such investment either a first mortgage or deed of trust, a refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation, or an underlying or divisional closed mortgage or trust deed of property which forms a part of the operating system of the corporation then owning said property. No savings bank shall purchase the bonds of any railroad corporation deriving less than twenty per centum of its gross receipts from passenger revenues. The term "railroad corporation," when used in

paragraph (f) of subdivision three of this section, shall have the meaning defined in the "Public Utilities Act" approved December 23, 1911.

(g) Bonds of any street railroad corporation; or of any gas; water; pipe line; light; power; light and power; gas, light and power; electrical; telephone; telegraph; or telephone and telegraph corporation or of any other "public utility" incorporated under the laws of the State of California; and *Public service corporation and industrial bonds.*

(1) Operating exclusively in the State of California; *Corporations provided, said corporation has had, for its fiscal year next preceding such investment, net earnings, after the payment of all maintenance charges, operating expenses and taxes, amounting to one and one-half times the interest on all its outstanding mortgage indebtedness; or operating exclusively in California.*

(2) Operating its property in part within the State of California; *Corporations provided, said corporation has had, for each of its two fiscal years next preceding such investment, net earnings, after the payment of all maintenance charges, operating expenses and taxes, amounting to one and one-half times the interest on all of its outstanding mortgage indebtedness; or operating partly in California.*

(3) The payment of which is guaranteed, both as to principal and interest, by a public utility corporation meeting the requirements of either subdivision (1) or (2) of paragraph (g) of this section, the income of which latter corporation, together with the income of any corporation whose bonds it has guaranteed, shall have been sufficient to pay all its maintenance charges, operating expenses, taxes and interest on all its total outstanding mortgage indebtedness, and in addition thereto, interest on the total outstanding mortgage indebtedness of any other corporation the payment of which it has guaranteed, for the period specified in the respective subdivisions of this paragraph relating thereto; *Public service corporation whose principal and interest are guaranteed by another corporation.* *provided, that the excess of income of any corporation whose bonds have been so guaranteed, over its maintenance charges, operating expenses, taxes and interest on its outstanding mortgage indebtedness shall not*

apply to or be included in determining the income so required. In determining the income of any corporation specified in paragraph (g) of subdivision three of this section, there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation the entire business and income producing property of which the corporation issuing such bonds has wholly acquired. All bonds authorized for investment by paragraph (g) of subdivision three of this section must be secured by a mortgage or trust deed which is at the time of making such investment; either

A closed first mortgage.

I. A closed first mortgage or deed of trust; or

II. A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to pay all maintenance charges, operating expenses, taxes and one and one-half times the interest on all its mortgage indebtedness then outstanding and on the additional bonds then proposed to be issued; or

A refunding mortgage.

III. A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation, and restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to pay all maintenance charges, operating expenses, taxes and one and one-half times the interest on all its mortgage indebtedness then outstanding, and on the additional bonds then proposed to be issued; or

Underlying or divisional closed mortgage or trust deed.

IV. An underlying or divisional closed mortgage or trust deed of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or trust deed, the net income required by

this section shall be based exclusively upon the income, maintenance charges, operating expenses, taxes and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or trust deed, or on the proper proportionate share of such property in the general income, maintenance charges, operating expenses, taxes and mortgage indebtedness of the corporation then owning such property; *provided, however,* that if the payment of the bonds secured by such underlying or divisional closed mortgage or trust deed shall be guaranteed or assumed by the corporation then owning the property securing the same, such bonds shall be legal investments for savings banks, if the net income of such corporation from all sources after paying all of its maintenance charges, operating expenses, taxes and mortgage indebtedness shall equal the amount herein required, notwithstanding any insufficiency of the income derived from the property covered by such underlying or divisional closed mortgage or trust deed to meet the requirements of this section.

The term "street railroad corporation," "pipe line corporation," "gas corporation," "electrical corporation," "telephone corporation," "telegraph corporation," "water corporation," and "public utility," when used in paragraph (g) of subdivision three of this section, shall each have the meaning defined in the "Public Utilities Act" approved December 23, 1911.

(h) Notes or bonds secured by first mortgage or deed of trust or other first lien upon real estate, improved or unimproved; *provided,* that the entire note or bond issue shall not exceed sixty per centum of the market value of such real estate, or such real estate with improvements, taken as security; *and provided, further,* in case the said note or bond issue is created for a building loan on real estate, that at no time shall the entire outstanding note or bond issue exceed sixty per centum of the market value of the real estate and the actual cost of the improvements thereon taken as security. *Secured notes or bonds.*

Collateral trust bonds or notes. (i) Collateral trust bonds or notes when secured by either:

(1) Deposit of bonds authorized for investment by this section, of a market value at least fifteen per centum in excess of the par value of the collateral trust bonds or notes issued; or

(2) Deposit of bonds authorized for investment by this section, and other securities, of a combined market value at least twenty per centum in excess of the par value of the collateral trust bonds or notes issued; *provided*, that the par value of said collateral trust bonds or notes shall in no case exceed the market value of that portion of the security represented by bonds authorized for investment by this section.

Bonds legal in New York or Massachusetts. (j) Bonds legal for investment by savings banks in the states of New York or Massachusetts; *provided, however*, that as to bonds of the character specified in paragraph (c) or (e) of subdivision three of this section, such bonds shall also conform to the requirements of either of such paragraphs.

(k) Certificates issued by a corporation organized under the laws of this state with a paid-up capital stock of not less than one hundred thousand dollars, evidencing and conferring participation to an indicated amount in a first mortgage on real estate and the debt secured thereby, and guaranteeing the payment of the principal of the mortgage debt at its maturity or within some specified time thereafter and agreeing to pay interest on the amount of the participation at some specified rate, the mortgage however and debt thereby secured to be assigned to a trust company and held by it as security for the payment of said mortgage certificates and for the performance of all conditions imposed thereby upon the corporation issuing the same, provided the said first mortgage indebtedness shall not exceed sixty per centum of the market value of the real estate taken as security and provided further that the trust company shall certify on each certificate that the

aggregate amount of the certificates issued evidencing and conferring participation in any one such mortgage and mortgage debt does not exceed the principal of the said mortgage debt; *but provided, nevertheless, that, unless such certificates are made legal investment for savings banks by other law of this state, no savings bank shall purchase any such certificates until the corporation issuing the same has first obtained the written approval of the superintendent of banks to such certificates as an investment for savings banks.* The actual expense of investigating any issue of such certificates presented to the superintendent of banks for approval shall be paid by the corporation presenting the same, and the superintendent of banks, before making such investigation may require a cash deposit of such amount as he may deem necessary to cover such expense. The superintendent of banks may accept and act upon the opinions and appraisements of any title insurance or abstract company, attorneys or appraisers which may be presented by such corporation so applying, and the reports of any of the executive officers of the corporation issuing such certificates, on any question of fact concerning or affecting such certificates, the security thereof, or the financial condition of the corporation issuing the same. In lieu of or in addition to such opinions, appraisements and reports, the superintendent of banks may, if he deems proper, have any or all such matters passed upon and certified to him by attorneys, appraisers or accountants of his own selection at the expense of the applicant. The superintendent of banks shall keep an official list of all issues of such certificates approved by him.

No notes, bonds, or other securities, the payment of which is secured by any mortgage or deed of trust executed after September 1, 1913, shall be deemed to come within or conform to the requirements of either of paragraphs (f), (g) or (i) of subdivision three of this section, unless such notes, bonds or other securities shall, in the manner provided in this act, have been certified by

the superintendent of banks, to come within and fully conform to the requirements of one or the other of said paragraphs.

The legality of investments heretofore lawfully made pursuant to the provisions of this section, or of any law of this state, as it existed on and subsequent to July 1, 1909, shall not be affected by any amendments to this section or this act; nor shall any such amendments require the changing of investments once lawfully made under this act.

Any bonds authorized by this section as a legal investment for savings banks may be carried on the books of said bank at their investment value based on their market value at the time they were originally bought, unless the superintendent of banks shall require any or all of the bonds which may thereafter have a market value less than the original investment value to be written down to such new market value which shall be done gradually if practicable and in such manner as he may determine; or he may, by a plan of amortization to be determined by him, require such gradual extinction of premium as will bring such bonds to par at maturity.

No savings bank shall hereafter purchase or loan money upon any bond, note or other evidence of indebtedness, issued by any "public utility," subject to the jurisdiction, regulation or control of the railroad commission of this state under the provisions of the "Public Utilities Act," approved December 23, 1911, unless each such bond, note or other evidence of indebtedness was either:

(a) Issued prior to the taking effect of the "Public Utilities Act"; or

(b) Issued under authority of the railroad commission, in accordance with the provisions of said act; or

(c) A note issued for a period not exceeding twelve months, in accordance with the provisions of subdivision (b) of section fifty-two of said act.

No provision of this act, and no act, or deed, done or performed under or in connection therewith, and no finding made or certificate issued under any provision thereof, shall be held or construed to obligate the State of California to pay, or be liable for the payment of, or to guarantee in any manner whatsoever, the regularity or the validity of the issuance of any stock or bond certificate, or bond, note, or other evidence of indebtedness certified under any provision of this act, by the superintendent of banks, as being in conformity with the requirements of any paragraph of subdivision three of this section.

SEC. 61a. The superintendent of banks shall have power, *Powers of Superintendent of Banks regarding bonds.* when any issue of bonds or securities is presented to him for that purpose, to investigate and ascertain whether such bonds or securities come within and fully conform to all the requirements of paragraphs (f), (g), (h) or (i) of subdivision three of section sixty-one of this act, or of either of said paragraphs. He may also investigate and ascertain for what period of time, and upon what conditions, any franchise granted to or held by any corporation issuing any such bonds or securities will remain in force. The actual expense of investigating any issue of bonds or securities so presented shall be paid by the person or corporation presenting the same for investigation, and the superintendent of banks, before making such investigation may require a cash deposit of such amount as he may deem necessary to cover such expense. The superintendent of banks may accept and act upon the opinions and appraisements of any attorneys or appraisers which may be presented by such person or corporation so applying, and the reports of any of the executive officers of the corporation issuing such bonds or securities, on any question of fact concerning or affecting such bonds or securities, the security thereof, the franchise conditions herein mentioned, or the financial condition of the corporation issuing the same. In lieu of or in addition to such opinions, appraisements and reports, the superintendent of banks may, if he deems proper, have any or all

such matters passed upon and certified to him by attorneys, appraisers or accountants of his own selection at the expense of the applicant. If the superintendent of banks shall find from such investigation that the bonds or securities so presented come within and fully conform to all the requirements of any of said paragraphs of subdivision three of section sixty-one of this act, and is satisfied from such investigation as to such franchise conditions, he shall so certify, otherwise a certificate shall be refused. The superintendent of banks shall keep an official list of all bonds and securities certified by him.

SEC. 62. No savings bank shall, directly or indirectly, deal or trade in real or personal property in any other case or for any other purpose than is authorized by this act, and shall not contract any debt or liability for any purpose whatever other than for deposits, except as in this section provided.

*Deposits may
be paid by draft.*

Savings banks may pay regular depositors, when requested by them, by draft upon deposits to the credit with their banks, and charge current rate of exchange for such drafts.

*Borrowing
money.*

No savings bank shall borrow money, or pledge or hypothecate any of its securities, except to meet the immediate demands of its own depositors, and then only in pursuance of a resolution adopted by a vote of a majority of its board of directors, duly entered upon their minutes, wherein shall be recorded the ayes and nays upon each vote; also with the written approval of the superintendent of banks, and he shall have the authority to fix the amount to be borrowed, and the term and rate of interest thereon; *provided, however,* that savings banks may, in the manner authorized by law, and without the written approval of the superintendent of banks, borrow the public moneys of the state, counties, cities and counties, and towns and receive such public moneys on deposit; *provided, also,* that savings banks may in the manner authorized by law, and without the written approval of the superintendent of banks, borrow postal savings moneys of the United States, and receive such postal savings moneys on deposit.

*State, county
and municipal
deposits.*

SEC. 63. Savings banks may issue general certificates of deposit, which are transferable, as in other cases, by indorsement and delivery; may issue, when requested by the depositor, special certificates, acknowledging the deposit by the person therein named of a specified sum of money, and expressly providing on the face of such certificate that the sum so deposited and therein named may be transferred only on the books of the bank; payment thereafter made by the bank to the depositor named in such certificate, or to his assignee named upon the books of the bank, or in case of death, to the legal representative of such person, of the sum for which such special certificate was issued, shall discharge the bank from all further liability on account of the money so paid. *Certificates of deposit.*

All time certificates of deposit, issued by a savings bank, shall be subject to the same limitations and conditions as applied to other deposits, and notice thereof shall be given by the words "Subject to conditions of agreement with depositors" printed on the face of the certificate issued. *Time certificates.*

SEC. 64. Each savings bank must prescribe by its by-laws, or by contract with its depositors, the time and conditions on which repayment is to be made to depositors, except as in this act otherwise provided. In all cases the by-laws or contracts shall provide that notice of at least thirty days may, at the option of any such bank, be required to be given of intention to withdraw any deposit or part thereof, but whenever there is any call by depositors for repayment of a greater amount than the bank may have disposable for that purpose, the directors or officers thereof must not make any new loan or investment of the funds of the depositors or of earnings thereof until such excess of call has ceased. The directors of any such bank having no capital stock shall, before the declaration of any dividend, carry at least one-tenth part of the net profits of such bank, for the preceding half year, or for the period covered by said dividend, to its reserve fund. Subject to the provisions of section nineteen of this act, any losses sustained by any such bank may be charged to and paid out of its reserve fund. A larger reserve fund may be created and nothing herein contained shall be construed as prohibitory thereof. The assets of any such bank are a security to its depositors. Any such bank *Withdrawal of deposits.*

organized without capital stock, may provide by its by-laws for the disposal of any amount in its reserve fund in excess of the amount required by section nineteen of this act and may also provide for final disposal upon the dissolution of the bank of its reserve fund or the balance thereof remaining after payment of any losses of such bank.

*No director or
officer may
borrow from
bank.*

SEC. 65. No loan shall be made, directly or indirectly, to any director or officer of any savings bank by such bank or on the endorsement, surety or guaranty of any such officer or director, except that loans may be made to any corporation in which any director or officer of such savings bank may own or hold a minority number of shares of stock, upon authorization of a majority of all the directors of such savings bank and the affirmative vote of all directors of such savings bank present at the meeting authorizing such loan; *provided, however,* that such loan shall in all other respects conform to and comply with all other provisions of this act. Such interested director or officer shall not vote or participate in any manner in the action of the board on such loan. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the corporate name of the borrower, the name of each director or officer of such bank who is a member, stockholder, or director of the corporation to which such loan is made, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor and the fact of payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. A loan may be made to any agent or employee, other than an officer or director, of any savings bank by such bank upon authorization of a majority of all the directors of such savings bank and an affirmative vote of all directors of such savings bank present at the meeting authorizing such loan; *provided, however,* that such loan shall in all respects conform to and comply with all other provisions of this act. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the name of the

borrower, the nature of his employment, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of the security given therefor, and the fact of payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. Any officer or director of any savings bank, who knowingly procures a loan from such savings bank, contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank, to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, the bank shall be liable therefor and shall forfeit to the people of the State of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

SEC. 66. No savings bank shall hereafter make any loans *Limitation of loans.* to any person, firm, co-partnership or corporation to an amount exceeding fifty per centum of the actual paid-up capital stock and surplus of such bank, or in the case of a bank organized without capital stock, to an amount exceeding fifty per centum of the reserve fund of such bank; *provided, however,* that any savings bank having a paid-up capital and surplus of less than fifty thousand dollars, but not less than twenty-five thousand dollars, may make any such loan on real estate security to an amount not exceeding twenty-five thousand dollars; *and provided further,* that any savings bank having a paid-up capital and surplus of less than twenty-five thousand dollars may make any such loan on real estate security to an amount not exceeding its paid-up capital and surplus, if each such loan in all other respects conforms to the provisions of this act. The renewal or extension of any loan heretofore legally made by any savings bank shall not be construed to be a "loan hereafter made" within the meaning of the provisions of this section. The legality of investments heretofore lawfully made pursuant to the provisions of this act as it existed on and subsequent to July 1, 1909, shall not be affected by the provisions of this section. For the purposes of this section an endorser or guarantor shall be deemed to be a borrower.

Loans. SEC. 67. 1. No savings bank shall loan money except on adequate security of real or personal property, and no such loan shall be made for a period longer than ten years; *provided*, that no such loan shall be made on unsecured notes.

Limitation of investment in bonds. 2. No savings bank shall invest or loan more than five per centum of its assets on any one bond issue, except bonds of the United States, of the State of California, bonds for which the faith and credit of the United States or of the State of California are pledged, or bonds of any county, city and county, city or school district in this state, or bonds of any irrigation district such as are legal for investment by savings banks.

3. No savings bank shall loan money:

(a) On bonds of the character specified in paragraphs (a), (b), (c), and (d) of subdivision three of section sixty-one of this act, unless such bonds shall have a market value at least ten per centum in excess of the amount loaned thereon; or,

(b) On bonds of the character specified in paragraphs (e), (f) and (g) or on bonds or notes of the character specified in paragraph (i) of subdivision three of section sixty-one of this act, unless such bonds or notes shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

(c) On bonds legal for investment by savings banks in the states of New York or Massachusetts, unless such bonds shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

Loans on personal property. (d) On personal property unless such personal property shall have a market value at least fifty per centum in excess of the amount loaned thereon; or,

Other bonds or stocks. (e) On other bonds, or on the capital stock of any corporation, unless such bonds or stock shall have a market value at least fifty per centum in excess of the amount loaned thereon; *provided, however*, that no loan shall be made upon the capital stock of any bank unless such bank has been in existence at least two years and has earned and paid a dividend on its capital stock.

4. No savings bank shall make any loan on the security of real estate, except it be a first lien, and in no event to exceed sixty per centum of the market value of any real estate taken as security except for the purpose of facilitating the sale of property owned by such savings bank; *provided*, that a second lien may be accepted to secure the repayment of a debt previously contracted in good faith; *and, provided, also*, that any savings bank holding a first mortgage or deed of trust on real estate may take or purchase and hold another and immediately subsequent mortgage or deed of trust thereon, but all such loans shall not exceed in the aggregate sixty per centum of the market value of the real estate securing the same; *provided, further*, that a savings bank may loan not to exceed ninety per centum of the face value of a note or bond secured by a first mortgage or deed of trust on real estate, but in no event shall any such loan exceed ninety per centum of sixty per centum of the market value of the real estate covered by said mortgage or deed of trust. *Percentage of market value which may be loaned on real estate.*

5. No savings bank shall purchase, invest or loan its capital, surplus or the money of its depositors, or any part of either, in mining shares or stock. Any president or managing officer who knowingly consents to a violation of any provision of this section shall be guilty of a felony. *Mining stocks cannot be purchased or accepted as collateral.*

SEC. 68. Every savings bank or savings department of a bank, shall at all times maintain a lawful money reserve equivalent to four per centum of the aggregate amount of its deposits; one-half of such lawful money reserve shall be kept on hand in lawful money of the United States or gold certificates or silver certificates of the United States, and one half may consist of bonds of the United States or of lawful money of the United States or gold certificates or silver certificates of the United States, on hand or on deposit subject to call with any reserve bank provided for in section twenty of this act; *provided, however*, that no savings bank or savings department shall be required to maintain in its own keeping a lawful money reserve in excess of four hundred thousand dollars, and when such lawful money reserve in its own keeping reaches that amount, the balance of cash necessary to make up the four per centum may be kept on deposit subject to call with any reserve bank provided for in section twenty of this act. No new loan shall be made during any deficiency in the lawful money reserve. *Lawful money reserve.*

Deposits with any commercial bank, or commercial department of a bank, on open account, to facilitate business transactions, as provided in this section, shall be permitted, and shall not be construed as loans. Not more than five per centum of the deposits of any savings bank shall be deposited with any one bank, except with the consent of the superintendent of banks. Not more than fifteen per centum of the deposits of any savings bank shall be deposited with all other banks, except with the consent of the superintendent of banks. No savings bank or savings department shall receive deposits of other banks other than savings deposits and such deposits shall not be treated or considered as a part of the lawful money reserve of such depositing bank; *provided*, that the sum so deposited shall not exceed ten thousand dollars.

Funds of a decedent. SEC. 68½. Where a decedent, at the time of his or her death, left moneys on deposit with a savings bank, it shall be lawful for any public administrator, who shall become the administrator of the estate, to allow such deposit to remain in said savings bank, and also, it shall be lawful for him to deposit therein to the account of said decedent, any and all moneys of said estate not required for the current expenses of administration. Such deposit, whether made by the decedent or a public administrator, shall relieve the public administrator from depositing the same with the county treasurer. Moneys so deposited, whether by the decedent or by a public administrator, may be drawn upon demand without notice, upon the order of said administrator, countersigned by a judge of a superior court, when required for the purpose of administration or otherwise.

SEC. 69. Every savings bank, and the business of every savings department of every other bank, must be conducted under and in accordance with the provisions of this act.

ARTICLE III. COMMERCIAL BANKS.

Loans. SEC. 80. No commercial bank shall make any loans to any person, firm, copartnership or corporation, to an amount exceeding the following percentages of its capital stock actually paid in and surplus:

Limitations, of loans without security. 1. Ten per centum without security, except where such capital stock and surplus is less than twenty-five thousand dollars, in which event an amount not to exceed twenty per centum of such capital

stock and surplus may be loaned without security, and where such capital stock and surplus is greater than twenty-five thousand dollars and does not exceed fifty thousand dollars, a sum not exceeding five thousand dollars may be loaned without security. Nothing herein shall prohibit any commercial bank from taking or receiving any kind, character or amount of security whatsoever, either real or personal, for the protection of any loan made under the provisions of this subdivision, but no such loan or any part thereof shall be considered or construed as a secured loan unless the whole thereof is loaned upon security worth at least fifteen per centum more than the amount of such loan; or,

2. Fifteen per centum, in addition to the amount that may be loaned under the provisions of subdivision one of this section, upon security worth at least fifteen per centum more than the amount of such loan so secured; *provided, however,* that a separate note or notes shall be taken for the unsecured loans and a separate note or notes shall be taken for the secured loans, and the secured and unsecured loans shall not be combined in any way within one note, or notes; or,

3. Twenty-five per centum upon security worth at least fifteen per centum more than the amount of its loans so secured; *provided, however,* that when secured loans to this amount or any amount in excess of fifteen per centum are made, then no unsecured loans shall be permitted in addition to such secured loans.

A commercial bank may buy from, or discount for, any person, firm, co-partnership or corporation, or loan upon bills of lading or bills of exchange drawn in good faith against actual existing value an amount not exceeding seventy-five per centum of the paid-up capital and surplus of such bank; and may also buy from or discount for any person, firm, co-partnership or corporation, commercial or business paper actually owned by the person, firm, co-partnership or corporation negotiating the same, an amount not exceeding twenty-five per centum of the paid-up capital and surplus of such bank; but the discount of bills of lading or bills of exchange drawn in good faith against actual existing value, and the discount of commercial or business paper actually owned by the person, firm, co-partnership or corporation negotiating the same, shall not be considered as money borrowed by the person, firm, co-partnership or corporation selling or discounting the same.

Secured loans.

*Discounts,
bills of lading,
bills of
exchange, etc.*

SEC. 81. No loan shall be made by any commercial bank upon the securities of one or more corporations, the payment of which is undertaken, in whole or in part, severally, but not jointly, by two or more individuals, firms, or corporations:

(a) If the borrowers or underwriters be obligated absolutely or contingently to purchase the securities, or any of them, collateral to such loan, unless the borrowers or underwriters shall have paid on account of the purchase of such securities an amount in cash, or its equivalent, equal to at least twenty-five per centum of the several amounts for which they remain obligated in completing the purchase of such securities;

(b) If the commercial bank making such loan be liable, directly or indirectly, or contingently, for the repayment of such loan or any part thereof;

(c) If its term, including any renewal thereof by agreement, express or implied, exceed the period of one year;

(d) Or to an amount under any circumstances in excess of twenty-five per centum of the capital and surplus of the commercial bank making such loan.

Capital required. SEC. 82. Every commercial bank hereafter organized must have paid up in cash a capital stock of not less than,

(a) Twenty-five thousand dollars if its principal place of business is located in any locality the population of which does not exceed five thousand persons;

(b) Fifty thousand dollars if its principal place of business is located in any city the population of which is more than five thousand persons but does not exceed twenty-five thousand persons;

(c) One hundred thousand dollars if its principal place of business is located in any city the population of which is more than twenty-five thousand persons but does not exceed one hundred thousand persons;

(d) Two hundred thousand dollars if its principal place of business is located in any city the population of which is more than one hundred thousand persons but does not exceed two hundred thousand persons;

(e) Three hundred thousand dollars if its principal place of business is located in any city the population of which is more than two hundred thousand persons.

The foregoing classification shall not apply to any commercial bank already in existence which has received its certificate to do a banking business from the superintendent of banks; nor to any bank the location of which shall have been included by annexation or consolidation within the limits of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to establish any new branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Such excepted banks may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception; *provided*, that nothing herein shall be construed to affect the provisions of section nineteen of this act relative to the proportion of capital and surplus to deposits or of section twenty-three of this act relative to the capital stock required of banks doing a departmental business. The provisions of section twenty-three of this act, as to population, shall apply to any bank organized under the provisions of this section.

SEC. 83. No loan shall be made, directly or indirectly, to any officer of any commercial bank by such bank, or on the endorsement, surety, or guaranty of any such officer, except as hereinafter provided in this section. *Loans to directors.* Loans to any director, agent, or other employee, or to any firm, co-partnership, or corporation of which any director, officer, agent or other employee is a member, stockholder, director, agent or other employee, or to any person, firm, co-partnership or corporation on the endorsement, surety, or guaranty of any such director other than an officer, agent or other employee, can be made by any commercial bank only on authorization of, or confirmation within thirty days after making such loan, by a majority of all the directors of such bank and the affirmative vote of all directors of such bank present at the meeting authorizing or confirming such loan. Such interested director shall not vote or participate in any manner in the action of the board on such loan. The board of directors of any such bank may fix the total amount of credit that may at any one time during the twelve months next

succeeding be given to any director, agent, or other employee, or to any firm, co-partnership or corporation in which any director, officer, agent, or other employee is a member, stockholder, director, agent or other employee, and any or all loans made within or up to the total amount of such authorized credit may at any time during said twelve months, be renewed from time to time, in whole or in part, by the officers of the bank without any further vote or action on the part of the board of directors. Each such authorization shall be entered upon the records or minutes of said bank. No director shall vote or participate in any manner in such action of the board fixing the total amount of credit that may at any one time be given to himself or to any firm, co-partnership or corporation in which he is a member, stockholder, director, agent or other employee. The fact of making such loan, the names of the directors authorizing such loan, the name of the director, agent, or employee, obtaining such loan, or the name of the firm, co-partnership or corporation in which such director, officer, agent, or employee is interested, obtaining such loan, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor, if any, and the fact of payment when made, shall be forthwith reported in writing by the cashier or secretary of such bank to the superintendent of banks. In case of a loan so made without the previous authorization of the directors, the action of the board of directors, in confirming or refusing to confirm such loan within thirty days thereafter, shall be reported in the same manner. Any officer, director, agent, or employee of a commercial bank, who knowingly procures a loan from such commercial bank contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank, to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, the bank shall be liable therefor and shall forfeit to the people of the State of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

Bank premises. SEC. 84. No commercial bank shall invest an amount exceeding its paid-up capital and surplus in the lot and building in which the business of the bank is carried on, furniture and fixtures, vaults and safe deposit vaults and boxes necessary or proper to carry on

its banking business; and hereafter the authority of a two-thirds vote of all the directors shall be necessary to authorize the purchase of such lot and building or the construction of such building.

ARTICLE IV.

TRUST COMPANIES.

SEC. 90. Any corporation which has been or shall be incorporated under the general corporation laws of this state which is authorized by its articles of incorporation to act as executor, administrator, guardian of estates, assignee, receiver, depository or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population does not exceed one hundred thousand persons and which has a capital of not less than one hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred and twenty-seven of this act, to transact such business, and any corporation which has been or shall be incorporated under the general corporation laws of this state, which is authorized by its articles of incorporation to act as executor, administrator, guardian of estates, assignee, receiver, depository or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population exceeds one hundred thousand persons and which has a capital of at least two hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, may

*Capital
required.*

act, or may be appointed by any court to act, in any such capacity in like manner as an individual and when so qualified shall be known as a trust company. Any such trust company may, as provided in this act, accept or receive any deposit of money or personal property authorized, directed or permitted to be made with any such corporation by any court or law of this state, and may accept and execute any trust provided for in this act, or permitted by any law of this state, to be taken, accepted or executed by an individual. Any such trust company, if located in a city the population of which does not exceed one hundred thousand persons must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all court trusts accepted by it and whenever such trust company shall, under the provisions of sections 96 and 98 of this act, be required to make the first additional deposit of securities with the state treasurer, such trust company must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all court trusts accepted by it, and any trust company, if located in a city, the population of which exceeds one hundred thousand persons, must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of all court trusts accepted by it; *provided*, that no such trust company shall at any time be required to apportion and set aside any portion of its surplus as security for the faithful performance of such private trusts, nor shall it be prohibited from so doing; *and provided*,

further, that the respective amounts of capital or capital and surplus so apportioned and set aside shall be treated in all respects as the separate capital or capital and surplus of each respective kind or class of business, as though the same were conducted by separate and distinct corporations, and each shall be kept, held, used and disposed of wholly for the exclusive benefit, protection and security of the respective classes of trust business to which the same were respectively so apportioned and set aside. In all cases in which it is required that an executor, administrator, guardian of estates, assignee, receiver, depository or trustee, shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath be taken and subscribed or such affidavit made by the president, vice president, secretary, manager, trust officer, assistant trust officer or regularly employed attorney thereof, and such officer or employee shall be liable for the failure of such trust company to perform any of the duties required by law to be performed by an individual acting in like capacity and subject to like penalties; *provided*, any such appointment as guardian shall apply to the estate only, and not to the person. No foreign corporation shall have or exercise in this state the power to act as trustee under any mortgage, deed of trust, or other instrument securing notes or bonds issued by any corporation, excepting that a foreign corporation may be authorized to act, outside of the State of California, as co-trustee with any qualified trust company organized and doing business under the laws of this state, for the following purposes with reference to bonds secured by mortgage or deed of trust of property in this state, and none other:

- (1) To deliver bonds, and receive payment therefor.
- (2) To deliver permanent bonds in exchange for temporary bonds of the same issue.
- (3) To deliver refunding bonds in exchange for those of a prior issue or issues.
- (4) To register bonds, or to exchange registered bonds for coupon bonds, or coupon bonds for registered bonds.

(5) To pay interest on such bonds, and to take up and cancel coupons representing such interest payments.

(6) To redeem and cancel bonds when called for redemption, or to pay and cancel bonds when due.

(7) The certification of registered bonds for the purpose of exchanging registered bonds for coupon bonds.

*Deposits by
authority of
court.*

SEC. 91. Any court having jurisdiction of any executor, administrator, guardian, assignee, receiver, depositary or trustee, upon the application of any such officer or trustee, or upon the application of any person having an interest in the estate or property administered by such officer or trustee, after such notice to the other parties in interest as the court may direct, and after a hearing upon such application, may authorize such officer or trustee to deposit any moneys then in his hands, or which may come into his hands thereafter, until the further order of said court, with any such trust company, and upon deposit of such money, and its receipt and acceptance by such trust company, the said officer or trustee shall be discharged from further care or responsibility therefor. Such deposit shall be paid out only upon the order of said court.

*Deposits by
public
administrator.*

SEC. 92. Any public administrator may deposit any or all moneys of any estate upon which he is administering, not required for the current expenses of such administration, with any such trust company having its principal place of business in the county, or city and county in which he is acting as such administrator. Any court having jurisdiction of an estate being administered by a public administrator, may direct such administrator to deposit all or any part of the moneys of said estate with any such trust company. Such deposit shall relieve the public administrator from depositing with the county treasurer the moneys so deposited with such trust company. Moneys so deposited by a public administrator may be drawn, upon the order of such administrator, countersigned by a judge of the superior court, when required for the purposes of administration, or otherwise.

*Deposits by
order of court.*

SEC. 93. Any court having jurisdiction of any estate in process of administration, or any other proceeding, may, on application of any person interested therein, or the person who has

been selected by said court, or a judge thereof, as executor, administrator, guardian, assignee, receiver, depository or trustee, after such notice to the parties in interest as the court shall direct, or without notice if all parties in interest consent thereto, and a hearing on such application, order any executor, administrator, guardian, assignee, receiver, depository or trustee so selected or appointed, whether such person has duly qualified or not, to deposit with any such trust company, for safe-keeping, such portion or all of the personal assets of said estate as the court shall deem proper, and upon such deposit being made, the court shall by an order of record reduce the bond to be given or theretofore given by such officer or trustee, so as to cover only the estate remaining in the hands of said officer or trustee; and the property so deposited shall thereupon be held by such trust company, under the order and direction of said court.

SEC. 94. Such trust company shall not be required to give any bond or security in case of any appointment or deposit of moneys or other personal assets hereinbefore provided for, except as provided in this act, but shall be responsible for all investments which shall be made by it of the funds which may be entrusted to it for investment by such court, and shall be liable to the same extent as an individual, and as hereinafter provided. *Responsibility for investments.*

SEC. 95. Such trust company shall pay interest upon all moneys so deposited with it at such rate as may be agreed upon at the time of its acceptance of any such deposit, or as shall be provided by the order of court and agreed to by such trust company. *Payment of interest.*

SEC. 96. Any such trust company, if its principal place of business is situated in a city the population of which does not exceed one hundred thousand persons, before accepting any such appointment or deposit, shall deposit with the state treasurer, as herein provided, at least fifty thousand dollars as security for the faithful performance and execution of all court trusts accepted by it, and shall also deposit with the state treasurer at least fifty thousand dollars as security for the faithful performance and execution of all private trusts accepted by it; and whenever any *Bonds or securities to be deposited with state treasurer.*

such trust company shall under the provisions of section ninety-eight of this act be required to make the first additional deposit of securities with the state treasurer such trust company must also deposit with the state treasurer an additional fifty thousand dollars as security for the faithful performance and execution of all private trusts accepted by it; and any trust company if its principal place of business is situated in a city the population of which exceeds one hundred thousand persons, before accepting any such appointment or deposit, shall deposit with the state treasurer, as herein provided at least one hundred thousand dollars, as security for the faithful performance and execution of all court trusts accepted by it, and shall also deposit with the state treasurer at least one hundred thousand dollars as security for the faithful performance and execution of all private trusts accepted by it. Any such deposit may be made either in lawful money of the United States, or in securities of either or any of the following classes:

(a) Bonds issued by the United States or by this state or by any county, city and county, city or school district therein;

(b) Bonds for the payment of which the faith and credit of the United States or of this state are pledged;

(c) Notes or bonds secured by mortgage or deed of trust constituting a first lien on improved and productive real estate in the State of California; such improved real estate being worth at least double the amount of such lien. Such money or securities shall be first approved by the superintendent of banks and, upon his written order, deposited with the state treasurer for the respective purposes herein specified, and said treasurer shall give his receipt therefor, and thereafter, subject to the provisions of this act, shall hold such deposits of money or securities separately, each for the sole benefit of the beneficiaries of the class of trust business, for the security and protection of which the same was deposited, and said treasurer shall give his receipt therefor and the state shall be responsible

for the custody and safe return of any money or securities so deposited. Said securities or money so deposited may, *Securities may be withdrawn.* with the approval of the superintendent of banks, be withdrawn or exchanged from time to time for other like securities, or lawful money, receivable as aforesaid, and so long as the trust company so depositing said money or securities shall continue solvent, it shall have the right and shall be permitted by the state treasurer to receive the interest and dividends on any securities so deposited. Said securities and money shall be subject to sale and transfer, and to the disposal of the proceeds by said state treasurer, only on the order of a court of competent jurisdiction and for the benefit respectively of the beneficiaries of that class of trust business for the security and protection of which the same were deposited.

SEC. 97. Any such trust company, having a capital and surplus of two hundred thousand dollars or more apportioned and set aside as security for the faithful performance and execution of all court trusts accepted by it, as provided in this act, and which is wholly or in part invested in the lot and building in which its business is carried on, may be permitted by the superintendent of banks to mortgage such lot and building to the state treasurer for such sum, up to its full market value, as the superintendent of banks may determine, and such mortgage may be deposited with said treasurer, and when so deposited it shall be included in the amount of securities herein required to be deposited with said treasurer as security for the faithful performance of all such court trusts. *Property may be mortgaged.*

SEC. 98. Whenever any trust company, the principal place of business of which is located in a city the population of which does not exceed one hundred thousand persons, receives from court trusts accepted by it, trust funds, as herein defined, to the amount of five hundred thousand dollars, it shall forthwith notify in writing the superintendent of banks of such fact, and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and whenever any trust company receives from court trusts such funds to the amount of one million *Amount of deposit required as security for trust funds.*

dollars it shall further notify in writing the superintendent of banks of such fact and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and for each additional five hundred thousand dollars of such trust funds thereafter received by any trust company from court trusts a similar notification in writing shall forthwith be given to the superintendent of banks, and a further deposit in the amount of twenty-five thousand dollars of such money or securities, or of securities provided for in section ninety-seven of this act likewise approved, shall be made, within thirty days thereafter, by such trust company with said state treasurer. The treasurer shall give his receipt for any money or securities so deposited and each and all of said deposits of money or securities, shall be held by said state treasurer for the sole benefit of the beneficiaries of the class of business for the security and protection of which same were deposited. The state shall be responsible for the custody and safe return of any money or securities so deposited with said state treasurer. The term "trust funds" when used in this section shall be deemed to mean and shall mean personal property and cash, whether received with the original trust property or as rent, income or proceeds thereof, or otherwise, in connection with the trust, and shall not be deemed to include and shall not include real property. Any trust company failing to comply with the provisions of this section shall forfeit to the State of California one hundred dollars a day for each day during which such failure or default shall continue. Upon making a request in writing to the superintendent of banks, any such trust company shall be entitled to withdraw from the state treasurer, from time to time, a sufficient amount of such securities so that at all times the amount of such securities so deposited shall conform to the requirements of this act, and so that at no time shall such trust company be required to have on deposit with the state treasurer an amount of securities in excess of the requirements of this act. Upon receiving such request in writing, and satisfactory proof of the facts warranting such withdrawal, it shall be the duty of the superintendent of banks to forthwith deliver to the state treasurer a written order directing the withdrawal of said securities so as to

Term
"Trust Fund."

Trust company
may withdraw
securities.

conform with the provisions of this section, and it shall be the duty of the state treasurer to comply with such written order. The validity or legality of any act or proceeding done or taken by any such trust company, relating to or in connection with the administration of any such trusts, shall not be affected or impaired by the neglect or failure of such trust company, or of any officer or employee thereof, to comply with any of the provisions of this act, but all such acts and proceedings done or taken prior to the revocation of its certificate of authority to do such business by the superintendent of banks, under the provisions of this act, or the revocation by any court or judge thereof of the appointment, order or decree theretofore entered in such trust matter shall be as valid and effective for all purposes as if any such neglect or failure had not occurred.

SEC. 99. When any part of the securities so deposited with the state treasurer consists of notes or bonds secured by mortgage or deed of trust, it shall be accompanied by a complete abstract of title or an unlimited certificate of title or a policy of title insurance prepared or issued by a person, company or corporation designated or approved by the superintendent of banks and authorized by law or otherwise found by the superintendent of banks to be competent to issue such evidence of title, which shall be examined and approved by or under the direction of said superintendent of banks. The fees for an examination of such evidence of title by counsel to be paid by the trust company making the deposit shall not exceed twenty dollars for each title examined, and the fee for each appraiser not exceeding two, shall not exceed five dollars for each mortgage or deed of trust.

Certificates of title required with mortgages deposited.

Fees of counsel and appraisers making examination.

Section one hundred repealed 1913.

SEC. 101. For the purposes of this act, all trusts permitted to be accepted or executed by any such trust company, under any provision of this act are hereby classified and defined as either:

Lists of trusts.

- (a) Court trusts; or
- (b) Private trusts.

A court trust is one in which any such trust company acts under appointment, order or decree of any court, as executor, administrator, guardian, assignee, receiver, depository or trustee, or in

which it receives on deposit from a public administrator, under any provision of this act, or from any executor, administrator, guardian, assignee, receiver, depository or trustee, under any order or decree of any court, money or property. Any other trust is a private trust. The inspection and supervision of the superintendent of banks shall extend only to court trusts as herein defined. Private trusts shall not be subject to the inspection or supervision of the superintendent of banks, his attorneys, examiners or other assistants. In making the reports to the superintendent of banks required by this act, every trust company shall, in addition to the other facts to be reported by it, furnish only a list and brief description of the court trusts held by it, the source of appointment thereto, the authority by which the appointment or deposit was made, and the amount of real or personal property held by such trust company by virtue thereof.

*Retiring from
business.*

SEC. 102. Any corporation which desires to withdraw from and discontinue doing a trust business shall furnish to the superintendent of banks satisfactory evidence of its release and discharge from all the obligations and trusts hereinbefore provided for, and thereupon the superintendent of banks shall revoke his certificate of authority to do a trust business theretofore issued to such corporation, and the state treasurer shall return to said corporation all the securities deposited by such corporation and shall cancel any mortgage made by such corporation to said state treasurer as a part of such securities, and thereafter such corporation shall not be permitted to use and shall not use the word "trust" in its corporate name or in connection with its business.

*Confidential
relations of
trust company
to clients.*

SEC. 103. Any trust company exercising the powers and performing the duties provided for in this act, shall, except as herein otherwise provided, keep inviolate all communications and writings made to or by said trustee touching the existence, condition, management and administration of any private trust confided to it; and no creditor or stockholder of any such trust company shall be entitled to disclosure or knowledge of any such communication or writing; *provided, however,* that the president, vice-president, manager, trust officer, secretary or regularly employed attorney of any such trust company shall be entitled to knowledge of any such

communication or writing; *and provided further*, that in any suit or proceeding touching the existence, condition, management or administration of any such trust, the court wherein the same is pending may require disclosure of any such communication or writing.

Section one hundred four repealed 1913.

SEC. 105. Every trust company shall, except as otherwise provided by law, invest its capital and surplus and any trust funds received by it in connection with its trust business, in accordance with the laws relative to the investment or loan of funds deposited with savings banks, unless a specific agreement to the contrary is made between the trust company and the party creating the trust, or unless it is otherwise ordered by the court, in connection with any court trust. *Investment of trust funds.*

SEC. 106. Any such trust company desiring to do, or doing, a commercial banking business or a savings bank business, or both, in addition to its trust business shall have actually paid up, in cash, the amount of capital provided in section twenty-three of this act. Any title insurance company authorized by its articles of incorporation to do, or doing a trust business, in addition to its title insurance business, shall comply with all the requirements of any law governing trust companies, and shall have a capital stock actually paid in, in cash, of not less than two hundred thousand dollars, and in addition thereto, the capital stock required by law for doing a title insurance business. Such capital for each such department or class of business shall be increased from time to time in the same manner and to the same extent as though each such department or class of business was conducted by a separate bank, trust company or title insurance company, instead of as separate departments or classes of business. Any trust company and any title insurance company doing a departmental business as above provided shall comply with the provisions of this act governing each of such departments and with the provisions of any law governing each such class of business as to its deposits, reserve, surplus, investments and loans. *Department business.*

SEC. 107. Any corporation doing a departmental business as a title insurance company and as a trust company, shall, as to its trust department, be subject to the supervision and inspection of the superintendent of banks, and as to its trust department must make all reports to the superintendent of banks required to be made by trust companies by the provisions of this act, and as to its trust department such corporation shall also be subject to, and shall have the benefit of all other provisions and requirements of this act applicable to trust companies, and shall also be subject to and shall have the benefit of all of the banking laws and rules and regulations of the banking department of this state applicable to trust companies. The proportionate part of the state banking fund provided for by section one hundred twenty-three of this act, that shall be payable by such corporation, shall be based on the amount of capital and surplus of such corporation apportioned to its trust department.

ARTICLE V.

STATE BANKING DEPARTMENT.

Superintendent of banks. SEC. 120. There is hereby created a state banking department. The chief officer of such department shall be the superintendent thereof, and be known as the superintendent of banks. He shall be appointed by the governor, and shall hold office at the pleasure of the governor. He shall not, either directly or indirectly, be interested in any commercial bank, savings bank or trust company, or as an individual banker. He shall receive an annual salary of ten thousand dollars, to be paid monthly out of the state treasury on a warrant of the controller. He shall, within fifteen days from the time of notice of his appointment, take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state, and execute to the people of the state a bond in the penal sum of fifty thousand dollars, with corporate surety or two or more sureties to be approved by the governor of the state, conditioned for the faithful discharge of the duties of his office.

SEC. 121. The superintendent of banks shall employ a chief deputy, attorney and such examiners and other assistants as he may need to discharge in a proper manner the duties imposed upon him by law, none of which examiners or assistants or attorney shall be interested in any bank in this state as director, stockholder,

officer or employee, and they shall perform such duties as he shall assign to them. He shall fix the compensation of the chief deputy, attorney, examiners and other assistants, which compensation shall be paid monthly on his certificate and on the warrant of the controller out of the state treasury. The chief deputy shall within fifteen days from the time of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state. No person shall be appointed a chief deputy who has not had at least three years' active banking experience, either as an executive officer or employee of some bank in this state. In case of the absence or inability to act, or vacancy in the office of the superintendent of banks for thirty consecutive days, the chief deputy shall execute to the people of the state a bond in the penal sum of fifty thousand dollars, with corporate surety or two sureties to be approved by the controller and treasurer of the state, conditioned for the faithful discharge of the duties of the superintendent while such deputy acts as superintendent, and upon filing such bond such deputy shall have all the power and duties of superintendent of banks, until the inability of the superintendent shall be removed, or until a new superintendent of banks shall have been appointed by the governor. No superintendent of banks, chief deputy, or bank examiner, shall be or shall become indebted, directly or indirectly, either as borrower, endorser, surety, or guarantor, to any bank under his supervision or subject to his examination.

*Chief deputy
superintendent.*

SEC. 122. The superintendent of banks shall have his principal office in the city of San Francisco, and may also have suitable rooms in the city of Los Angeles, wherein to conduct the business of the state banking department. The superintendent shall, from time to time, obtain the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of such business; the expense of which shall be paid out of the state treasury on the certificate of the superintendent and the warrant of the controller.

*Location of
offices.*

SEC. 123. A fund is hereby created to be known as the state banking fund, and out of said fund shall be paid all the expenses incurred in and about the conduct of the business of the banking department, including the salary of the superintendent, chief deputy, attorney, examiners and other assistants, traveling expenses, fur-

*State banking
fund.*

nishing of rooms and rent. Each bank shall pay annually its share of eighty-seven thousand five hundred dollars, to be determined by the proportion which the capital and surplus which shall include all reserve and contingent funds, of any incorporated bank or the surplus, reserve and contingent funds of any bank organized without a capital stock bear to the capital, surplus, reserve and contingent funds in the aggregate of all such banks receiving certificates of authorization from the superintendent of banks, as shown by the last report of such bank to the superintendent of banks. All moneys collected or received by the superintendent of banks, under and by virtue of the provisions of this act, shall be by him delivered to the treasurer of the state, who shall deposit the same to the credit of said banking fund, and the unexpended balances of all moneys heretofore paid into the state treasury by any of the bank commissioners or the superintendent of banks, shall be retained and become a part of said fund; *provided, however,* that the superintendent shall have authority to retain in his possession and under his control the sum of five hundred dollars to be used by him as a revolving fund for the benefit of the state banking department until the end of the fiscal year at which time he shall make full settlement with the treasurer of the state. If any such bank shall fail to pay such charges as are herein required, the superintendent shall forthwith cancel the certificate of said bank.

Inspection of banks. SEC. 124. Every bank and the trust department of every title insurance company doing a trust business, shall be subject to the inspection of the superintendent of banks. The superintendent of banks, the chief deputy, or some competent person or persons to be appointed by the superintendent of banks, to be known as examiners, shall visit and examine every bank at least once each fiscal year. On every such examination inquiries shall be made by him as to the condition and resources of the bank, the mode of conducting and managing its affairs, the action of its directors, the investment and disposition of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held and whether the requirements of its articles of incorporation and the law have been complied with in the administration of its affairs, and as to such other matters as the superintendent may prescribe. Whenever, in the judgment of the superintendent of banks, the condition of any bank renders it necessary or expedient

to make an extra examination or to devote any extraordinary attention to its affairs, the superintendent of banks shall have authority to make any and all necessary extra examinations and to devote any necessary extra attention to the conduct of its affairs; and such bank shall pay for all such extra services rendered by the superintendent of banks at a price to be fixed by the superintendent of banks but not to exceed twenty dollars per day. The superintendent of banks shall also have power to examine, or cause to be examined, every agency located in this state of any foreign bank or banking corporation, for the purpose of ascertaining whether it has complied with the laws of this state, and for such other purposes and as to such other matters as the superintendent may prescribe. The superintendent, chief deputy, and every such examiner shall have the power to administer an oath to any person whose testimony he may require on the examination of any bank, or on the examination of any agency of any foreign bank or banking corporation, and to compel appearance and attendance of any such person for the purpose of any such examination. When a bank shall have been examined by any examiner, and he finds securities therein which are, in his judgment, of doubtful value, he shall report the same to the superintendent of banks, who thereupon shall be authorized to employ appraisers at the expense of such bank to appraise said securities, at a compensation to be fixed by the superintendent of banks. The superintendent of banks shall, whenever requested to do so by any bank, provide an auditor to make an audit of the affairs of such bank. The compensation for making such audit shall be paid by the bank direct to the person making the audit. Nothing herein shall be deemed to authorize or require the superintendent of banks to inspect or supervise the private trust business or title insurance business of any corporation doing a trust business. *Branches of foreign banks.*

SEC. 125. Every examiner appointed by the superintendent of *Examiners.* banks shall, before entering upon the discharge of his duties, take the constitutional oath of office and cause the same to be filed in the office of the secretary of state. No such examiner shall be appointed receiver of any bank whose books, papers and affairs he shall have examined pursuant to his appointment.

*Neglect to
report unsafe
condition.*

SEC. 126. If the chief deputy or any examiner shall have knowledge of the insolvency or unsafe condition of any bank mentioned in this act, and that it is unsafe or inexpedient to permit said bank to continue business, and shall neglect to forthwith report such fact in writing over his signature to the superintendent of banks, he shall be guilty of felony.

*Certificate from
superintendent
necessary for
transaction of
banking business.*

SEC. 127. No bank shall transact any business in this state without the written approval of the superintendent of banks, and without his written certificate stating that it has complied with the provisions of this act, and all the requirements of law, and that it is authorized to transact, within this state, the business specified therein; which certificate may be withheld by the superintendent of banks whenever he has reason to believe that the bank is being formed for any other than the legitimate objects contemplated by this act or whenever he has reason to believe that the public convenience and advantage will not be promoted by the opening of such bank, or whenever he has reason to believe that the corporate name assumed by such bank, by reason of the use by it of any one or more of the words "commercial," "trust," or "savings," in conjunction with any other word or words, resembles so closely as to be likely to cause confusion, the name of any other bank previously formed under the laws of this state. Before issuing such certificate the superintendent of banks shall examine, or cause an examination to be made, in order to ascertain whether the requisite capital of such bank has been paid up in cash or the requisite reserve or surplus fund has been accumulated. The superintendent of banks shall not authorize such banks to commence business until it appears from such examination, or other evidence satisfactory to him, that the requisite capital has been, in good faith, subscribed and paid in, in cash, or that the requisite surplus or reserve fund has been accumulated or paid in, in cash, and until said bank shall have paid a fee of fifty dollars for each department to be operated by said bank.

*Investigation
of applications
for certificate.*

SEC. 128. When the certified copy of articles of incorporation of any bank shall have been filed with the secretary of state, and application made for the issuance of a certificate to do business as a bank, the superintendent of banks, provided he has not withheld granting his certificate for any of the reasons set forth in section one

hundred twenty-seven hereof, shall ascertain, from the best sources of information at his command, whether the character and general fitness of the persons named as stockholders are such as to command the confidence of the community in which such bank is proposed to be located, and, if so satisfied, he shall, within sixty days after such application has been made to him, issue, under his hand and official seal, the certificate of authorization required by this act. The superintendent of banks shall transmit a duplicate of such certificate of authorization to the county clerk of the county in which the principal place of business of such bank is located, and he shall file the same in his office. The superintendent of banks shall also file a duplicate of such certificate in his own office.

SEC. 129. Every bank doing a departmental business shall render to the superintendent of banks for each department conducted by it, a separate report showing in detail as required by section one hundred thirty of this act, the actual financial condition of such department and shall at the time of furnishing said report separately publish the statement for each department as provided in section one hundred thirty-two of this act.

Reports by departmental banks.

SEC. 130. Every bank, organized under the laws of this state, shall, whenever required by the superintendent of banks, make a report in writing to him, verified by the oath of its president and its secretary or cashier, or two principal officers. Such reports shall show the actual financial condition of the bank making the report, at the close of any past day designated by the superintendent, and shall specify the following:

Character of report required upon demand of superintendent.

1. The amount of its capital stock and the number of shares into which it is divided.
2. The names of the directors and the number of shares of stock held by each.
3. The total amount of capital actually paid in, in cash, and the total amount of surplus, reserve and any other funds.
4. The total amount due the depositors.
5. The total amount and character of any other liabilities it may have.

Capital.

Names of directors.

Reserve funds, etc.

Liabilities.

Real estate. 6. The amount at which the lot and building occupied by the bank for the transaction of its regular business stands debited on its books; also the market value of all other real estate held, whether acquired in settlement of loans or otherwise, the original cost to the bank, the date when acquired, the amount at which it stands debited on the bank books, in what counties situated, and in what name the title is vested, if not in the name of the bank itself.

Loans on real estate. 7. The amount loaned on real estate, specifying the amount secured on real estate in each county separately; also specifying the name of the person in whose name the property is held in trust or as security, in case it is held in any name other than that of the bank and the instrument creating the security does not itself disclose the name of the bank.

Invested in bonds and stocks. 8. The amount invested in bonds, designating the name and amount of each particular kind.

9. The amount loaned on stocks and bonds, designating each particular class and the amount thereof.

Other securities. 10. The amount of money loaned on other securities, with a particular designation of each class and the amount loaned on each.

Money on hand. 11. The amount and kind of money on hand or deposited in any other bank or place, with the name of the place where deposited and the amount in each place.

Other items. 12. Any other property held, or any amount of money loaned, deposited, invested or placed, not otherwise herein enumerated, and the place where situate and the value of said property, and the amount so loaned, deposited or placed.

Date of reports. 13. The date on which examination of the bank was last made by its board of directors and the date on which report of such examination was filed, as required by section one hundred thirty-nine of this act.

Loans made by banks. 14. The outstanding and unpaid amounts of any loans made by the bank, which under the provisions of either section sixty-five or eighty-three of this act are required to be reported to the superintendent of banks.

Overdrafts. 15. Any overdrafts and any loans, investments, acts or omissions violative of or not in conformity with any provision of this act which may be specifically called for.

Every foreign corporation transacting the business of banking in this state shall make the report herein required as far as such report may relate to the affairs of such corporation in this state, and every foreign corporation must particularly render the report required by subdivisions three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen and fifteen of this section. Such report shall be made in writing and verified by the oath of one of its duly authorized officers or managers residing in this state. The oaths of the officers and the statements above required shall state that they and each of them have a personal knowledge of the matters therein contained, and that they believe every allegation, statement, matter, and thing therein contained is true. Any wilful false statement in the premises shall be perjury and shall be punished as such. *Publication of financial condition.*

SEC. 130a. In addition to the information obtained from the report required by the provisions of section one hundred thirty of this act, the superintendent of banks shall also have the power to require any bank to furnish a special report in writing verified as required by section one hundred thirty of this act, whenever in his judgment such special report is necessary to inform him fully of the actual financial condition and affairs of such bank. Any wilful false statement in the premises shall be perjury and shall be punished as such. *Special reports.*

SEC. 131. The superintendent of banks shall call for the reports specified by section one hundred thirty of this act at least three times each year. The "past day designated by the superintendent" of banks, under the provisions of section one hundred thirty of this act, shall be as nearly as possible the day designated by the comptroller of currency of the United States for reports of national banking associations. *Three reports a year.*

SEC. 132. At the time of furnishing such report to the superintendent of banks, every bank shall also publish a condensed statement of its financial condition, at least once, in some newspaper of general circulation, published in the city or town where its principal place of business is located, and, if no paper is published in such town, then in some newspaper of general circulation in the county where its principal place of business is located. Such published *Publication of financial condition.*

statement shall show the total amount of loans, the total amount of overdrafts, the total amount invested in bonds and other securities, the total amount due from banks, the total amount of checks and other cash items, the total amount of cash on hand, capital paid in, surplus funds; undivided profits, less expenses and taxes paid; due to other banks and bankers, due to trust companies and savings banks; individual deposits subject to checks; demand certificates of deposit; time deposits; certified checks; cashier's checks outstanding; and such other items as will show the actual financial condition of the bank making the report.

*Reduction of
capital by
impairments.*

SEC. 133. Whenever it shall appear from the report of any bank, or the superintendent of banks shall have reason to believe that the capital of any bank is impaired or reduced below the amount required by law, it shall be the duty of the superintendent of banks and he shall have the power to examine said bank and ascertain the facts, and in case he finds such impairment or reduction of capital, he shall require such bank to make good the deficiency so appearing within sixty days after the date of such requisition. The directors of every such bank, upon which such requisition shall have been made, shall levy an assessment upon the stock thereof to repair such deficiency, and shall cause notice of such requisition to be given to each stockholder of the bank and of the amount of the assessment which he must pay for the purpose of making good such deficiency, by a written or printed notice mailed to such stockholder at his last known address or served personally upon him. If any stockholder shall refuse or neglect to pay the assessment specified in such notice within thirty days from the date of mailing or serving such notice as aforesaid, the directors of such bank shall have the right to sell to the highest bidder at public auction the stock of such stockholder, after giving a previous notice of such sale for ten days in a newspaper of general circulation published in the county where the principal place of business of such bank is located, and a copy of such notice of sale shall also be served on the owner of such stock by being served personally on him or by mailing to his last known address ten days before the day fixed for such sale; or such stock may be sold at private sale and without such public notice; *provided, however*, that before

making such private sale thereof an offer in writing shall first be obtained and a copy thereof served upon the owner of record of the stock sought to be sold, either personally or by mailing a copy of such offer to his last known address; and if, after service of such offer, such owner shall still refuse or neglect to pay such assessment within two weeks from the time of the service of such offer, the said directors may accept such offer and sell such stock to the person making such offer, or to any other person or persons making a larger offer than the amount named in the offer submitted to the stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the superintendent of banks in his determination and requisition as to said assessment, nor for less than the amount of said assessment so called for and the expense of sale. Out of the avails of the stock so sold, the directors shall pay the amount of assessment levied thereon, and the necessary costs of sale, and the balance, if any, shall be paid to the person or persons whose stock has thus been sold. A sale of stock as herein provided shall effect an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold, and shall make the same null and void, and a new certificate shall be issued by the bank to the purchaser thereof.

SEC. 134. If it shall appear to the superintendent of banks that any bank has violated or failed to comply with the provisions of its articles of incorporation, or any law of this state, he may, by an order under his hand and official seal, which seal must be adopted by him, addressed to such bank, direct such bank to discontinue such violation and to comply with the law; or, if it shall appear to the superintendent of banks that such bank is conducting business in an unsafe or injurious manner, he may, in like manner direct the discontinuance of any such unsafe or injurious practices. Such order shall require such bank to show cause, before the superintendent of banks, at a time and place to be fixed by him, why said order should not be observed. If upon such hearing it shall appear to the superintendent of banks that such bank is conducting business in an unsafe or injurious manner, or is violating or failing to comply with the provisions of its articles of incorporation, or any law of this state, then the superintendent of

*Violations
of articles
of incorporation.*

banks shall make such order final, and such bank shall immediately comply with such order made by the superintendent of banks. Such bank shall have ten days after any such order is made final in which suit may be commenced to restrain enforcement of such order, and unless such action be so commenced and enforcement of said order be enjoined within ten days, by the court in which such suit is brought, then such bank shall comply with such order.

*Superintendent
may call
stockholders'
meeting.* SEC. 135. Whenever the superintendent of banks shall deem it expedient he may call a meeting of the stockholders of any bank organized under the laws of this state, by a personal notice of such meeting for fifteen days previous thereto. All necessary expense incurred in the serving of such notice shall be borne by the bank whose stockholders are required to convene.

*Superintendent
of banks may
procure
judgment
dissolving
banks.* SEC. 135a. If the capital of any bank shall be impaired, or if any bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of such bank, or if such bank shall violate the provisions of its articles of incorporation, or any law of this state, or if such bank shall suspend payment of its obligations, or if such bank shall conduct its business in an unsafe or unauthorized manner, or if from any examination or report provided for by this act the superintendent of banks shall conclude that such bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, an action to procure a judgment dissolving such corporation may be maintained by the superintendent of banks.

SEC. 136. Whenever it shall appear to the superintendent of banks that any bank has violated the provisions of its articles of incorporation or any law of this state, or is conducting its business in an unsafe or unauthorized manner, or if the capital of any bank is impaired, or if any bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of any such bank, or if any bank shall suspend payment of its obligations, or if from any examination or report provided for by

this act the superintendent of banks shall have reason to conclude that such bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any bank shall neglect or refuse to observe any order of the superintendent of banks specified in sections one hundred thirty-three or one hundred thirty-four of this act, the superintendent of banks may forthwith take possession of the property and business of such bank and retain such possession until such bank shall resume business, or its affairs be finally liquidated as herein provided. On taking possession of the property and business of any such bank the superintendent of banks shall forthwith give notice of such fact to any and all banks, trust companies, associations and individuals, holding or in possession of any assets of such bank. No bank, trust company, association or individual knowing of such taking possession by the superintendent of banks, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the bank of whose property and business the superintendent of banks shall have taken possession as aforesaid. Such bank may, with the consent of the superintendent of banks, resume business upon such conditions as may be approved by him. Upon taking possession of the property and business of any such bank the superintendent of banks shall have authority to collect moneys due to such bank and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The superintendent of banks shall collect all debts due and claims belonging to it, and upon the order of the superior court may sell or compound any bad or doubtful debts. If a purchaser for any bad or doubtful debts cannot be obtained and it appears improbable that recovery thereon can be had and that the costs of actions to enforce collection of the same would probably be lost, the court may direct that suits thereon need not be brought. On like order he may sell any real or personal property of such bank on such terms as the court shall direct; and may, if necessary to pay the debts of such bank, enforce the constitutional individual liability of stockholders by action to be brought within three years after the date of his taking possession of the

*Superintendent
may take
charge of banks.*

*Superintendent
may collect
debts.*

*Recovery from
stockholders
to pay bank's
liabilities.*

affairs of such bank. The superintendent of banks shall determine the necessity of such action and the amount necessary to recover from the stockholders to fully pay all liabilities of such bank. Such action may be in equity and against all stockholders upon whom service of process in the State of California can be had, and the court may therein determine and provide for any equities as between the stockholders including the proportions of each stockholder to any surplus of money or assets that may remain after the payment of all liabilities and the expenses of liquidation. The superintendent of banks may also maintain an action against any stockholder residing out of the state or upon whom service of process cannot be had within the state, in any court of the United States or of any state or country. Any judgment so obtained by the superintendent of banks against such or any of such stockholders which is of doubtful value may be compromised and compounded by the superintendent of banks on such terms and conditions as the superior court may direct or authorize. The superintendent of banks shall file a notice of pendency of action in the county recorder's office of the county where such action is brought. At any time prior to the trial of any such action, any creditor may serve upon the superintendent of banks and file with the court wherein such action is pending, notice that he elects to maintain an action against the stockholders or any of them, in his individual capacity and thereupon the amount sued for in such action shall be reduced accordingly and such creditor shall not be entitled to share in the proceeds resulting from such action brought by the superintendent of banks. For the purpose of executing and performing any of the powers and duties hereby conferred upon him, the superintendent of banks may, in the name of the delinquent bank or in his own name, prosecute and defend any and all suits and other legal proceedings and may, in the name of the delinquent bank or in his own name as trustee execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary and proper to effectuate any sale of real or personal property or sale or compromise or compound authorized by order of the court as herein provided; and any deed or other instrument, executed pursuant to the authority hereby given, shall be valid and effectual for all purposes, as though the same had been executed by the officers of the delinquent

bank by authority of its board of directors. In case any of the real property so sold is located in a county other than the county in which the application to the court for leave to sell the same is made, the superintendent of banks shall cause a certified copy of the order authorizing or ratifying such sale to be filed in the office of the recorder of the county in which the said real property is located. The superintendent of banks may, under his hand and official seal, appoint one or more special deputy superintendents of banks, as agent or agents, with the powers specified in the certificate of appointment hereinafter mentioned, to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the superintendent of banks, and a certified copy in the office of the clerk of the county in which the principal office of such bank is located.

*Special
Deputy
Superintendents.*

The superintendent of banks may from time to time, by a certificate of appointment under his hand and official seal, specifying the powers conferred, authorize a special deputy superintendent to perform such duties connected with such liquidation and distribution as the superintendent of banks may deem proper. Such certificate of appointment shall be filed in the office of the superintendent of banks and a certified copy in the office of the clerk of the county in which the principal office of such bank is located. The superintendent of banks may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such bank, and for that purpose may retain such of the officers or employees of such bank as he may deem necessary. The superintendent of banks shall require from a special deputy superintendent and from such assistants such security for the faithful discharge of their duties as he may deem proper. The superintendent of banks shall cause notice to be given by advertisement, in such newspapers as he may direct, weekly for three consecutive months, calling on all persons who may have claims against such bank to present the same to the superintendent of banks, and make legal proof thereof at a place and within a time, not earlier than the last day of publication, to be therein specified. The superintendent of banks shall mail a similar notice to all persons whose names appear as creditors upon the books of the bank. If the superintendent of banks doubts the justice and validity of any

*Liquidation and
distribution of
bank's assets.*

claim, he may reject the same, and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice, which shall be *prima facie* evidence thereof shall be filed with the superintendent of banks. Any action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the superintendent of banks equitably applicable thereto. Upon taking possession of the property and assets of any bank, the superintendent of banks shall make an inventory of the assets of such bank in duplicate, one to be filed in the office of the superintendent of banks, and one with the papers in said proceeding in the office of the clerk of the county in which the principal office of such bank is located; upon the expiration of the time fixed for the presentation of claims the superintendent of banks shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, one to be filed in the office of the superintendent of banks, and one with the papers in said proceeding in the office of the clerk of the county in which the principal office of such bank is located. Thereafter he shall make and file in said offices as above provided at least fifteen days before each application to the court for leave to declare a dividend a supplemental list of the claims presented since the last preceding list was filed, including and specifying such claims as have been rejected by him, and in any event he shall make and file as above provided such a list at least once every six months after the filing of the original list, as long as he shall remain in possession of the property and business of any such bank. Such inventory and list of claims shall be open at all reasonable times to inspection. The compensation of the special deputy superintendents, counsel and other employees and assistants, and all expenses of supervision and liquidation, shall be fixed by the superintendent of banks and shall upon the certificate of the superintendent of banks be paid out of the funds of such bank in the hands of the superintendent of banks.

Inventory of assets.

Fees. All such expenses must be reported by the superintendent of banks to the superior court of the county where the principal place of business of such bank is located and settled by such court upon

notice to such bank. The moneys collected by the superintendent of banks shall be from time to time deposited in one or more state banks of deposit, savings banks or trust companies, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits. At any time after the expiration of the date fixed for the presentation of claims the superior court may by order authorize the superintendent of banks to declare out of the funds remaining in his hands after the payment of expenses one or more dividends, and after the expiration of one year from the first publication of notice to creditors he may declare a final dividend, such dividends to be paid to such persons, and in such amounts, and upon such notice, as may be directed by the superior court of the county in which the principal office of such bank is located. Objections to any claim not rejected by the superintendent of banks may be made by any party interested by filing a copy of such objections with the superintendent of banks, who shall present the same to the superior court at the time of the next application to declare a dividend. The court to which such application is made shall thereupon dispose of said objections or may order a reference for that purpose, and should the objections to any claim be sustained by the court or by the referee, such claim shall not be allowed by the superintendent of banks until the claimant shall have established his claim by the judgment of a court of competent jurisdiction. The court must make proper provision for unproved or unclaimed deposits.

*Deposit of
funds of banks
in liquidation.*

*Court to rule on
disputed claims.*

Should any bank at the time the superintendent of banks takes possession of its property and business, have in its possession, as bailee for safekeeping and storage, any jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers or other valuable personal property or should it have rented any vaults, safes or safe deposit boxes or any portion thereof for the storage of property of any kind, the superintendent of banks may at any time thereafter cause to be mailed to the person claiming to be or appearing upon its books to be the owner of such property, or the person in whose name the safe, vault or box stands, a notice in writing in a securely closed, postpaid registered letter, directed to such person at his post office address as recorded upon its books, notifying such person to

*Personal
property.*

remove, within a period fixed by said notice and not less than sixty days from the date thereof, all such personal property and upon the date fixed by said notice, the contract, if any, between such person and bank for the storage of said property or for the use of the said safe, vault or box shall cease and determine, and the amount of the unearned rent or charges, if any, paid by such person shall become a debt of the bank to said person. If the property be not removed within the time fixed by the notice, the superintendent of banks may make such disposition of said property as the superior court, upon application thereto, shall direct. And the superintendent of banks may cause any safe, vault or box to be opened in his presence or in the presence of one of the special deputy superintendents of banks, and of a notary public not an officer or in the employ of the bank or of the superintendent of banks, and the contents thereof, if any, to be sealed up by such notary public in a package upon which such notary public shall distinctly mark the name and address of the person in whose name such safe, vault or box stands upon the books of the bank and shall attach thereto a list and description of the property therein; and the package so sealed and addressed, together with the list and description, may be kept by the superintendent of banks in one of the general safes or boxes of the bank until delivered to the person whose name it bears, or until otherwise disposed of as directed by the court. Whenever any such bank of whose property and business the superintendent of banks has taken possession as aforesaid, deems itself aggrieved thereby, it may, at any time within ten days after such taking possession, apply to the superior court in the county in which the principal office of such bank is located to enjoin further proceedings; and said court, after citing the superintendent of banks to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts may, upon the merits, dismiss such application or enjoin the superintendent of banks from further proceedings, and direct him to surrender such business and property to such bank. An appeal as above provided shall operate as a stay of the judgment of the superior court, and no bond need be given if the appeal be taken by the superintendent of banks; but if the appeal be taken by such bank, a bond shall be given, as required by section nine hundred forty-three of the Code of Civil

*Bank may
appeal to courts.*

*Appeal to
supreme court.*

Procedure. Whenever the superintendent of banks shall have paid to each and every depositor and creditor of such bank whose claim or claims as such creditor or depositor shall have been duly proved and allowed, the full amount of such claims, and shall have made proper provision for unclaimed and unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the superintendent of banks shall call a meeting of the stockholders of such bank giving notice thereof for thirty days in one or more newspapers published in the county where the principal office of such bank is located. At such meeting the stockholders shall determine whether the superintendent of banks shall be continued as liquidator and shall wind up the affairs of such bank, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the superintendent of banks, he shall complete the liquidation of the affairs of such bank, and after paying the expenses thereof, shall distribute the proceeds among the stockholders in proportion to the several holdings of stock in such manner and upon such notice as may be directed by the superior court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall execute and file with the superintendent of banks a bond to the people of the state in such amount, with such sureties and in such form as shall be approved by the superintendent of banks, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the superintendent of banks shall transfer and deliver to such agent or agents all the undivided and uncollected or other assets of such bank then remaining in his hands; and upon such transfer and delivery, the said superintendent of banks shall be discharged from any and all further liability to such bank and its creditors. Such agent or agents shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of said bank as is herein provided in the case of distribution by the superintendent of banks,

*Final
liquidation.*

*Stockholders
may elect agent
to liquidate.*

*Dividends
and unclaimed
deposits.*

except that the expenses thereof shall be subject to the direction and control of a court of record of competent jurisdiction. In case of the death, removal or refusal to act of any such agent or agents, the stockholders, on the same notice, to be given by the superintendent of banks upon proof of such death, removal or refusal to act being filed with him, and by the same vote hereinbefore provided, may elect a successor, who shall have the same powers and be subject to the same liabilities and duties as the agent originally elected. Dividends and unclaimed deposits remaining unpaid in the hands of the superintendent of banks for six months after the order for final distribution shall be by him deposited with the state treasurer in the same manner and subject to the same disposition as provided for in section one thousand two hundred thirty-four of the Code of Civil Procedure. The superintendent of banks may pay over the moneys so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same. In cases of doubt or conflicting claims he may require an order of the superior court authorizing and directing the payment thereof.

SEC. 136a. Any bank which has ceased to do a banking business whether through voluntary action on its part or through expiration of its corporate existence, shall immediately liquidate its affairs and any unclaimed deposits or dividends shall be paid into the state treasury in the manner and for the purposes provided in section one hundred thirty-six of this act within six months after the date such bank ceased to conduct a banking business, and in case the superintendent of banks shall have reason to conclude that the liquidation of such bank is not being safely or expeditiously conducted, he may take possession of the property of such bank and liquidate its affairs in the same manner as provided in section one hundred thirty-six of this act. Whenever any bank of whose property the superintendent of banks has taken possession as aforesaid, deems itself aggrieved thereby, it may within the time and in like manner and effect as provided in section one hundred thirty-six of this act apply to the superior court to enjoin further proceedings.

SEC. 136b. In any action or proceeding brought under any provision of this act, exclusive original jurisdiction shall be vested in the superior court of the county in which is located the principal

place of business of the bank affected thereby, and all proceedings relating to the same matter, under any provision of this act, including proceedings for liquidation of the affairs of any such bank, shall be filed with and treated as a part of the record in such original proceedings, and all papers relating to any such action or proceeding, including the copy of certificate of appointment of any special deputy and the inventories required to be filed in the matter of any such liquidation, shall be filed with and made a part of the record of such original proceeding, without the payment of any additional fees therefor, and in any such action no damage may be awarded, but the action otherwise shall be tried and determined according to the provisions of the Code of Civil Procedure.

Inventories.

SEC. 137. 1. Any bank shall have the right, on application of the stockholders or members to apply to the superior court of the county wherein its principal place of business is situated, to dissolve said bank in the manner provided for in title six, part three of the Code of Civil Procedure.

*Stockholders
may apply to
court.*

2. At the expiration of four months after the settlement of the final account of the receiver of any bank appointed prior to July 1, 1909, any dividends due depositors, or other creditors, or stockholders of such bank and remaining unpaid or uncalled for and in the hands of such receiver may be paid by him into the treasury of the county in which such bank is situated which money shall be held in the treasury of said county, and at the same time it shall be the duty of such receiver to furnish to the county treasurer of said county a list of names of all depositors or other persons to whom such money belongs or who are entitled thereto and thereupon such receiver shall be entitled to his discharge.

*Unclaimed
deposits.*

3. The moneys referred to in subdivision two of this section shall be paid out on the order of the court appointing such receiver.

*How moneys
may be drawn.*

4. All moneys paid under subdivision two of this section, uncalled for within five years after being paid in, shall by operation of law, and without action had, escheat to the state. All moneys held by any county treasurer under subdivision two of this section, when such moneys have escheated to the state as hereinbefore provided, shall be paid by the county treasurer into the state treasury, and

*When funds
escheat to state.*

thereafter only be drawn out in such manner as may be provided for by law for the estates of deceased persons escheated to this state.

Investment. 5. The state board of control must invest such moneys in the same manner that the state school land fund is invested as provided by law. But any claimant shall be entitled to recover as herein provided only the principal so paid into the state treasury.

Penalty for delaying or withholding reports. SEC. 138. If any bank shall fail to make any report required by the provisions of section one hundred thirty or one hundred thirty a of this act, within ten days from the day designated for the making thereof by the superintendent of banks, or to include therein any matter required by the provisions of either of said sections, it shall forfeit to the people of the state the sum of one hundred dollars for each day that any such report shall be so delayed or withheld by the failure or neglect of such bank. In the event of the failure of any such bank to make any such report required from it, the superintendent of banks may, in his discretion, immediately cause the books, papers and affairs of such bank to be examined at the expense of such bank.

Examination of condition of bank by directors. SEC. 139. It shall be the duty of the board of directors of every bank to examine fully into the books, papers and affairs of the bank of which they are directors, and particularly into the loans and discounts thereof, with a special view to ascertaining the value and security thereof, and of the collateral security, if any given, in connection therewith, and into such other matters as the superintendent of banks may require; such examination to be made at least once a year, but no such subsequent yearly examinations shall be made within three months of the next preceding examination. Such directors shall have power to employ such assistance in making such examinations as they may deem necessary. Within ten days after the completion of such examination, a report in writing thereof, sworn to by the directors making the same, shall be made by the board of directors of such bank, and placed on file with the records of said bank, and shall be subject to examination by the superintendent of banks. Such report shall particularly contain a statement of the assets and liabilities of the bank examined, as shown by its books, together with any deductions from the assets, or additions to liabilities, which such directors or committee, after such examination,

may determine to make. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons for so regarding them; also a statement of loans made on collateral security, which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and, if not, a statement of that fact, and its actual value as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the bank. If the directors of such bank shall fail to make such examination or fail to cause it to be made, or shall fail to file such report of such examination in the manner and within the time specified, the superintendent of banks shall have authority to make or cause to be made an extra examination of such bank at the expense of such bank.

*Report of
examinations.*

SEC. 140. The superintendent of banks shall report during the month of October of each year, to the governor, for submission to the next ensuing session of the legislature:

*Report of
superintendent
to Governor.*

1. A summary of the state and condition of every bank required to report to him, and from which reports have been received the preceding year, with an abstract of the whole amount of capital returned by them, the whole amount of their debts and liabilities, and the total amount of means and resources, specifying the amount of specie held by them at the time of the last report to him, and such other information in relation to such banks as, in his judgment, may be useful.

*Summary of
conditions.*

2. A statement of all banks authorized by him to do business during the previous year, with their names and locations and dates of incorporation, and particularly designating such as have commenced business during the year.

New banks.

3. A statement of the banks whose business has been closed during the year.

Closed banks.

4. Any amendments to the banking law, which, in his judgment, may be desirable.

Amendments.

Pay roll. 5. The names and compensation of all persons employed by him, and the whole amount of the receipts and expenses of the department during the year.

Bank in liquidation. 6. The names of banks placed in his hands in process of liquidation, and the amount of dividends paid thereon.

Printing of report. Such report, and the usual number of copies for the use of the legislature, shall be printed and in readiness for distribution by the state printer, and one thousand copies shall be printed for the use of the department, the expense of which shall be charged among the general expenses of the department.

Information in superintendent's office for public. SEC. 141. 1. The superintendent of banks shall keep in his office, in a place accessible to the general public, a bulletin board upon which he shall cause to be posted at noon on Friday of each week a detailed statement, signed by him or, in case of his absence from San Francisco or inability to act, by the deputy superintendent in charge, giving the following items of general information with regard to the work of the department since the preceding statement:

List of applications. (a) The name of every bank that has filed in the banking department an application for authorization to commence business, its location and the date of filing of such application.

Authorized banks. (b) The name and location of every bank authorized by the superintendent of banks to commence business, its capital, surplus, and the date of authorization.

Banks refused authorization. (c) The name of every bank to which a certificate of authorization has been refused by the superintendent of banks, and the date of notice of refusal.

Names of employees. (d) The name and residence of every person appointed by the superintendent of banks as a deputy, examiner or employee in the banking department, the title of the office to which appointed, the compensation paid, and the date of appointment.

Calls for reports. (e) The date on which a call for a report by banks was issued by the superintendent of banks, and the day designated as the day with reference to which such report should be made.

Liquidated banks. (f) The name and location of every bank whose creditors or depositors have been paid in full by the superintendent of banks and

a meeting of whose stockholders shall have been called, together with date of notice of meeting and date of meeting.

(g) The name and location of every bank subject to the banking law whose affairs and business shall have been finally liquidated, or in course of liquidation.

(h) The name and location of every bank which has applied for approval of a change of name, and the name proposed. *Change of names of banks.*

2. Every such bulletin, after having been posted as aforesaid for one week, shall be placed on a file for such statements, to be kept in the office of the superintendent of banks. All such statements shall be public documents, and at all reasonable times shall be open to public inspection during usual banking hours. *Bulletins filed.*

SEC. 142. Every official report made by the superintendent and every report duly verified of an examination made, shall be prima facie evidence of the facts therein stated, for all purposes in any action or proceeding wherein such bank is a party. *Reports of superintendent available as evidence in court.*

Section one hundred forty-three repealed 1913.

SEC. 144. Whenever by the terms of this act a penalty or forfeiture is imposed, the same shall be recovered in an action brought at the request of the superintendent of banks by the attorney general, in the name of the people of the state, and the sum recovered shall be paid into the state banking fund and used in payment of claims against the said fund. *Penalties and forfeitures.*

SEC. 145. The powers, privileges, duties and restrictions conferred and imposed upon any corporation or individual existing and doing business under the laws of this state are hereby abridged, enlarged or modified as each particular case may require to conform to the provisions of this act, notwithstanding anything to the contrary in their respective articles of incorporation or charters. All the provisions of this act shall apply with equal force and effect to all corporations which are now doing or which may hereafter do a banking business in this state, except where express exception or exemption may be made herein. The legality of investments heretofore made, or title to property heretofore acquired *Articles of incorporation.*

*Changes of
investments
to conform
may be
gradual.*

or conveyed through transactions heretofore had by any bank pursuant to any provision of law in force when such investments were made or transactions had, shall not be affected by the provisions of this act, except that any such investments made prior to July 1, 1909, when not complying with the provisions hereof, shall be changed to conform hereto; but such change shall be made gradually and in such manner as to prevent loss or embarrassment in the business of such bank, or unnecessary loss or injury to the borrowers on such security; *provided, further,* that in any event, all investments and securities and excess in investments made prior to July 1, 1909, which are not in conformity with the provisions and spirit of this act and which have been acquired and are now held by any bank, must be written off as assets of such bank prior to July 1, 1918; and no bank holding any such investments or securities acquired prior to July 1, 1909, shall after July 1, 1918, be permitted to pay any dividends to its stockholders until it shall have written off all such non-conforming investments or securities; *and provided, further,* that the legality of any investments heretofore lawfully made, pursuant to the provisions of this act as it existed on and subsequent to July 1, 1909, shall not be affected by the provisions of this section.

SEC. 146. All acts, or parts of acts, in conflict with this act are hereby repealed.

SEC. 147. This act shall take effect July 1st, 1909.

Public Deposit Acts of California

STATE DEPOSIT ACT

AN ACT TO AMEND SECTION THREE OF AN ACT ENTITLED "AN ACT TO AUTHORIZE THE DEPOSIT OF STATE MONEYS IN BANKS IN THIS STATE, AND TO REPEAL ALL ACTS AND PARTS OF ACTS IN CONFLICT WITH THIS ACT," APPROVED FEBRUARY 28, 1907, AND AMENDED BY AN ACT APPROVED MARCH 24, 1911.

[Amended by act approved April 30, 1913.]

The people of the State of California do enact as follows:

SECTION 1. All moneys under the control of the state treasurer, belonging to the state, may be deposited by the state treasurer to the credit of the state in such state or national bank, or banks, in the state, as the treasurer, with the approval of the governor and state controller, shall select for the safe-keeping of such deposits, and any sum so deposited shall be deemed to be in the state treasury; *Deposit of state moneys in banks.* *provided* that the bank or banks in which such money is deposited shall furnish security as hereinafter provided; *Security.* *and provided further,* that such depositary bank or banks be selected from those agreeing to pay the highest rate of interest, not less than two per cent per annum, for such deposits, as may be determined by bids to be submitted at such times and in such manner, as the treasurer, with the approval of the governor and the state controller shall direct; *Interest.* *provided,* that not more than one tenth of the aggregate amount of state moneys available for deposit and on deposit shall be deposited in any one bank; *Amount to be deposited.* *and, provided further,* that such deposit shall not exceed fifty per cent of the paid-up capital, exclusive of reserve and surplus, of any depositary bank. Any and all bids may be rejected by the treasurer, with the approval of the governor and state controller, and new bids asked for. The expense of transportation of moneys to and from the state treasury to such depositaries shall be borne by such depositaries. Said deposits, with interest thereon, shall be subject to withdrawal at any time upon the demand of the state treasurer, unless the treasurer, with the consent of the *Expense of transporting moneys.*

Term of deposit. governor and controller, shall deposit any part of such moneys upon different terms; *provided* that no agreement for the deposit of said money shall be for a longer period than one year.

Interest, when payable. SEC. 2. The interest to be paid by any such depository bank shall be on the average daily balances of the state moneys kept on deposit therewith, and shall be paid and credited to the state monthly on the first day of each and every month, and such interest shall accrue to the general fund of the state treasury;

School moneys. *Provided* that if any moneys belonging to the state school fund or the state school land fund shall at any time be deposited under the provisions of this act, the interest received thereon shall be paid into the state school fund.

Section three of this act is hereby amended to read as follows:

Security of funds deposited. SEC. 3. For the security of the funds deposited by the state treasurer under the provisions of this act, there shall be deposited with the treasurer bonds of the United States, or of this state or any county, municipality, school district or irrigation district within this state, which bonds shall be approved by the governor, controller and treasurer, to an amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks; and if in any case, or at any time, such bonds are not deemed satisfactory security to the governor, controller and treasurer, they may require such additional security as may be satisfactory to them. Said bonds, or any part thereof, may be withdrawn on the written consent of the governor, controller and treasurer; *provided*, that a sufficient amount of said bonds to secure said deposits shall always be kept in the treasury; and in the event that said bank or banks of deposit shall fail to pay such deposits, or any part thereof, on the demand of the state treasurer, then it shall be the duty of the state treasurer to forthwith convert said bonds into money and to disburse the same according to law.

Provisions of contract. SEC. 4. The treasurer shall take from such depository or depositories a written contract, in duplicate setting forth the conditions and terms upon which the funds of the state are deposited therewith, one of which shall be filed with the controller. One provision of

said contract shall be that each depositary shall at the end of each month render to the treasurer a statement in duplicate showing the daily balances or amount of money of the state held by it during the month and the amount of the accrued interest thereon separately, one of which shall be filed by the treasurer with the controller. The treasurer shall annually on the first day of July furnish each depositary bank with a statement showing the amount and description of the bonds on deposit with him by such bank to secure state deposits. *Treasurer's annual statement to banks.*

SEC. 5. The treasurer, with the approval of the governor and controller, shall, if in his judgment it shall appear necessary for the security of the state, require said banks of deposit to give an indemnity bond, the sureties on which shall not be interested as stockholders in said bank or banks, to be approved by the governor, controller and treasurer, to secure the state against loss by any depreciation in value that may occur in such bonds held by him as security for the safe-keeping and prompt payment of the state moneys in such depositaries. *Indemnity bonds.*

SEC. 6. The state treasurer shall not be responsible for any moneys deposited in a bank or in banks under the provisions of this act while the same remain there deposited with the consent of the governor and controller; but the treasurer shall be chargeable with the safekeeping, management and disbursement of the bonds and certificates of deposit deposited with him as security for deposits of State moneys, and with the interest thereon, and the proceeds of any sale under the provisions of this act. *Treasurer not responsible for deposits.*

SEC. 7. At the time of depositing state moneys in any bank, designated as a depositary, the state treasurer shall take and preserve a receipt therefor, stating the amount deposited and referring to the contract made between the depositary banks and the treasurer. The moneys so deposited may be drawn out by the check or order of the state treasurer. *Treasurer's receipt.*

SEC. 8. The act of March 20, 1905, entitled "An act to authorize the deposit of state moneys in banks in this state, and to repeal all acts or parts of acts in conflict with this act," and all other acts or parts of acts in conflict with this act are hereby expressly repealed. *Act of 1905 repealed.*

COUNTY AND MUNICIPAL DEPOSIT ACT

AN ACT TO AMEND SECTION ONE OF AN ACT ENTITLED
"AN ACT TO PROVIDE FOR AND REGULATE THE DEPOSIT
OF COUNTY AND MUNICIPAL MONEYS IN BANKS AND
BANKING CORPORATIONS, LIMITING THE AMOUNT OF
PUBLIC MONEYS THAT MAY BE DEPOSITED THEREIN,
AND PROVIDING A PENALTY FOR THE ILLEGAL DEPOSIT
AND USE THEREOF," APPROVED MARCH 23, 1907.

[Amended by act approved April 30, 1913.]

The people of the State of California do enact as follows:

Section one of this act is hereby amended to read as follows:

Deposit of public moneys, other than state, in banks. SECTION 1. All moneys belonging to any county or municipality within the state may be deposited by any officer of such county or municipality having the legal custody of such county or municipal funds in any licensed national bank or banks within this state, or in any bank, banks or corporations authorized and licensed to do a banking business and organized under the laws of this state; *provided*, that such bank or banks in which such *Security required.* moneys are deposited shall furnish as security for such deposits bonds of the United States, or of this state, or of any county, municipality, school district, or irrigation district within this state, approved by the officer making the deposit and the district attorney for the county or city attorney for the municipality to which the deposit belongs. The market value of the bonds furnished shall be at least ten per cent in excess of the amount of the deposit secured thereby; but the amount of the deposit shall in no case exceed the face value of the bonds furnished as security therefor; *and provided*, that such bank or banks shall pay a reasonable rate of interest, not less than two per cent per annum, on the daily balances therein deposited.

Rate of interest to be fixed, when. SEC. 2. The rate of interest shall be fixed annually as herein provided in the month of January of each year on all deposits to be made for such year; *provided*, that the rate of interest for the year ending December 31st, 1907, may be fixed as herein pro-

vided within ninety days after this act goes into effect. The rate of interest shall be fixed in the case of counties, by the treasurer, auditor, and chairman of the board of supervisors, and in the case of municipalities by the treasurer, auditor, (or clerk of municipalities having no auditor) and chairman of the council or other governing body of such municipality. Said rate of interest shall be a reasonable rate and not less than two per cent per annum on the daily balances deposited; and the rate of interest so established for each year as herein provided, shall be the uniform rate of interest required from all banks receiving deposits from the county or municipality, for that year. *Minimum rate.*

Interest on all moneys deposited as herein provided for shall belong to the county or municipality represented by the officer making such deposit and shall be paid quarterly into the general fund of such county or municipality except where the law otherwise directs. *Interest, when payable.*

SEC. 3. It shall be the duty of the officer making the deposit, to receive from the bank in which the deposit is made, a receipt or receipts in duplicate showing the date and amount of deposit and rate of interest to be paid thereon, one copy of which said officer shall keep on file in his office and he shall file one copy with the auditor of the county or auditor of the municipality (or clerk in municipalities having no auditor) as the case may be. *Receipt for deposit.*

SEC. 4. Every treasurer shall keep a record in his office which shall be open to public inspection, showing at all times the amount of money on deposit and all banks in which the same is deposited, and dates of deposit. Also a record of all banks making application for the deposit of the public funds. *Record of deposits.*

SEC. 5. The total amount of public moneys on deposit in any bank, shall not at any one time exceed fifty per cent of the paid-up capital stock of such depository bank or banks. No officer shall have on deposit at any one time more than ten per cent of the public moneys under his control and available for deposit in any bank while there are other qualified banks requesting such deposits; *provided*, that no treasurer of a county, or municipality, shall be required to deposit public moneys in any bank outside of the county owning the money or in which the municipality is situated. *Amount that may be deposited.*

Receipts to be counted as cash. SEC. 6. The receipt issued by any bank for deposits made therein, together with the bonds held as security therefor, shall be held by the treasurer making the deposit and be recognized and counted as cash to the amount recited in the receipt by the officers required by law to count the same.

On failure of banks to repay, security to be sold. SEC. 8. Should any bank fail to pay any public moneys held on deposit as herein provided, the officer making such deposit may, after ten days' written notice to such bank, proceed to sell at public or private sale, such of the bonds held by him as security as he may see fit; *provided, however,* that he shall sell no bonds for less than their face value except at public sale after ten days' printed notice in some newspaper of general circulation published in the county where the sale is to take place. The proceeds of such sale, after paying all expenses, shall be credited to the account of the bank which deposited the bonds as collateral. Any bank failing to make payment, may, at any time before the sale of the bonds is completed, stop such sale by repaying all the moneys deposited with it, together with any expense that may have been incurred by the officer making such deposit, as the result of such failure. Should the proceeds of any such sale fail to fully repay any deposit, the balance remaining unpaid may be collected in an action of law in the name of the officer making the deposit.

Public officials not responsible for loss. SEC. 9. Public officials shall not be responsible for any loss of public moneys resulting from the deposit thereof when made in accordance with the provisions of this act. It shall be the duty of the officer making the deposit to safely keep all evidence of indebtedness issued by banks for deposits made therein, and bonds deposited for security and such public officer shall be responsible for such evidence of indebtedness, and for bonds held as security therefor, together with the interest thereon and the proceeds of any sale of such bonds; and the city, county or municipality for which said officer acts, shall be responsible to such bank for the safe return of the securities furnished by it to such officer.

SEC. 10. The expenses of transportation of moneys to or from *Transportation of moneys.* the state, county or municipal treasuries to such depositaries shall be borne by such depositaries.

SEC. 11. The making of profit out of county, city, town or other public moneys, or using the same for any purpose not authorized by law by any officer having possession or control thereof, shall be a felony. Any violation of the provisions of this act by a bank or a banking corporation, shall be punishable by a fine not exceeding five hundred dollars for each offense, and the officers of such bank or banking corporation and officer receiving such deposit shall be guilty of a felony. *Violation of act a felony.*

SEC. 12. Nothing in this act contained shall prevent any county or municipality within this state from buying bonds or otherwise investing its money in any manner now provided by law and nothing herein contained as to the disposition of interest on public moneys deposited shall apply to any money received or held by any county or municipality wherein any law provides for the payment of interest or profit thereon, into any particular fund. *Present laws not abrogated.*

SEC. 13. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 14. This act shall take effect immediately.

Investment Companies Act.

AN ACT TO DEFINE INVESTMENT COMPANIES, INVESTMENT BROKERS, AND AGENTS; TO PROVIDE FOR THE REGULATION, SUPERVISION AND LICENSING THEREOF; TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF; TO CREATE THE OFFICE OF COMMISSIONER OF CORPORATIONS, AND MAKING AN APPROPRIATION THEREFOR.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known as the "investment companies act." *Act.*

SEC. 2. (a) The term "investment company," when used in this act, includes every private corporation, association, co-partnership and company, which shall within this state, sell, offer for sale, negotiate for the sale of or take subscriptions for any stock, stock certificate, bond or other evidence of indebtedness of any kind or character, issued or to be issued by itself, other than promissory notes not offered to the public by the maker thereof. *Definition of "Investment Company."*

(b) The term "security," when used in this act, includes the stock, stock certificates, bonds, and other evidences of indebtedness, other than promissory notes not offered to the public by the maker thereof, of an investment company. *The definition of "Security."*

(c) The term "investment broker," when used in this act, includes every corporation, association, copartnership, company and person who shall within this state regularly engage in the business of selling, offering for sale or negotiating for the sale, as agent or contractor, of any security of more than one investment company. The term "contractor" means any one who undertakes to sell securities for an investment company for a commission or other consideration. *Definition of "Investment Broker."*

(d) The term "agent," when used in this act, includes every corporation, association, copartnership, company and person who shall within this state sell, offer for sale, negotiate for the sale of *Definition of "Agent."*

or take subscriptions for any security of an investment company, either as an employee on a salary basis or for a commission, if acting either for the investment company or an investment broker.

"Sale." (e) The term "sale," when used in this act, means the original transfer of title of its own securities from an investment company for any valuable consideration.

Exemptions from the application of this act. SEC. 3. This act shall not apply to corporations, associations, copartnerships, companies, firms and individuals now or hereafter subject to the jurisdiction or authority of the railroad commission, nor to corporations, associations, copartnerships, companies, firms and individuals after they have secured from the state banking department, the insurance commissioner or the bureau of building and loan supervision a certificate of authority or license to do business within this state, nor to corporations, associations, copartnerships or companies, subject to federal regulation or not organized for profit, nor to mutual water companies and irrigation districts, nor to the stocks, stock certificates, bonds or other evidences of indebtedness of such corporations, associations, copartnerships, companies, firms or individuals.

Application for permission. SEC. 4. (a) Before selling, offering for sale, negotiating for the sale, or taking subscriptions for, any security of any kind or character, each investment company shall file in the office of the commissioner of corporations of this state, an application for permission so to do, together with a filing fee, as hereinafter prescribed, an itemized statement of its financial condition, in such form and detail as the commissioner of corporations may prescribe, a copy of all contracts which it proposes to make with or sell to the public, a certified copy of its charter, articles of incorporation or articles of association and all amendments thereto, and such additional information pertaining thereto as the commissioner of corporations may, from time to time, prescribe. Said filing fee shall be five dollars if the par or face value of said security amounts to twenty-five thousand dollars or less; ten dollars if the par or face value of said security amounts to over twenty-five thousand dollars and not over fifty thousand dollars; fifteen dollars if the par or face value of said security amounts to over fifty thousand dollars and not over seventy-five thousand dollars; twenty dollars

if the par or face value of said security amounts to over seventy-five thousand dollars and not over one hundred thousand dollars; and twenty-five dollars if the par or face value of said security amounts to over one hundred thousand dollars.

(b) If the investment company does not desire to sell its securities to the public the commissioner of corporations may make his written finding to that effect. Upon the filing of said finding the investment company and its securities shall be exempt from the provisions of this act until the commissioner of corporations makes and files his order setting aside said finding. The commissioner of corporations shall have power to make his order setting aside said finding if he finds that the investment company is selling its securities to the public, or for other good cause.

*Exemptions of
Investment Co.
and securities.*

(c) If such company is organized or created under or by virtue of the laws of any other state, territory or government, it shall also file in the office of the commissioner of corporations a certified copy of the law or laws under which it is organized or incorporated, and all amendments thereto, and also, in such form as the commissioner of corporations may prescribe, its written instrument, irrevocable, appointing the commissioner of corporations or his successor in office its true and lawful attorney, upon whom all process in any action or proceeding against it may be served with the same effect as if said company were organized or created under the laws of this state and had been lawfully served with process therein. Service upon such attorney shall be deemed personal service upon such company. The commissioner of corporations shall forthwith forward by mail, postage prepaid to the person designated by such company by written instrument filed with the commissioner of corporations at the address given in said instrument, or, in case no such instrument has been filed, to the secretary of such company at its last known post office address, a copy of every process served upon him under the provisions of this section. For each copy of process, the commissioner of corporations shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of such service, to be recovered by him as part of his taxable costs, if he succeeds in the suit or proceedings. Service shall not be deemed complete until said fee has been paid, and said copy of process mailed as hereinbefore directed.

*Companies
organized in
other States.*

*Examination,
audit, etc.,
of investment
companies.*

*Certificate
of authority.*

SEC. 5. It shall be the duty of the commissioner of corporations to examine the statement and other information so filed, and he may, if he deems it advisable, make, or have made, at applicant's cost as hereinafter in this act specified, a detailed examination, audit and investigation of the investment company's affairs, providing that the investment company may at its option, in writing, refuse to have such examination, audit or investigation made, whereupon the commissioner of corporations must reject the application. If he finds that the proposed plan of business of the investment company is not unfair, unjust, or inequitable the commissioner of corporations shall issue to the investment company a certificate, authorizing it to sell securities, as therein specified within this state, reciting that the company has complied with the provisions of this act, that detailed information concerning the investment company and its securities is on file in the office of the commissioner of corporations and that the investment company is authorized to sell said securities within this state on such conditions, if any, as the commissioner of corporations may in said certificate prescribe. Said certificate shall recite in bold type that the issuance of this certificate is permissive only and does not constitute a recommendation or indorsement of said securities. The commissioner of corporations may impose such conditions as he may deem necessary to the issue of said securities, and may, from time to time, for cause, rescind, alter or amend the certificate. If the commissioner of corporations finds that the proposed plan of business of the investment company is unfair, unjust, or inequitable or that it does not intend to do a fair and honest business, he shall refuse to issue the certificate and shall notify the investment company in writing of his decision. It shall be unlawful to issue any security to which this act is applicable unless a certificate or a temporary permit authorizing the issue thereof shall first have been secured from the commissioner of corporations as provided in this act; and it shall further be unlawful for any investment company, investment broker or agent as in this act defined, to sell, offer for sale, negotiate for the sale of or take subscriptions for any stock, stock certificate, bond or other evidence of indebtedness of any kind or character without exhibiting to the prospective purchaser or prospective purchasers of such securities, or any thereof, a copy of the certificate issued to such

investment company in accordance herewith. A corporation may without applying for a certificate under the provisions of this act issue to each of its directors one share of stock for the purpose of qualifying as directors. The commissioner of corporations, if satisfied that the investment company intends to do a fair, just and equitable business, may, forthwith upon the filing of the statement and other papers required by section four of this act, issue to said investment company, upon such conditions as he may prescribe, a temporary permit to issue its securities pending the examination of said statement and other papers, and may, from time to time, for cause, rescind, alter or amend said temporary permit.

SEC. 6. The provisions of sections four and five of this act, *Issuing of* in so far as applicable, shall apply to investment brokers; *general permit.* *provided,* that the commissioner of corporations may, if he finds that the applicant has a good business reputation and deals only in good securities, issue to an investment broker a general permit entitling such investment broker to sell securities within this state, authorized by him, until the first of March following, when it will be necessary to secure a new general permit. For each such general permit the commissioner of corporations shall charge the sum of five dollars. Such general permit, however, shall be subject to revocation by the *Permit subject* commissioner of corporations at any time for cause appearing to *to revocation.* him sufficient. The commissioner of corporations shall forthwith mail written notice of such revocation to the investment broker.

SEC. 7. Any investment company or investment broker may *Agents.* appoint one or more agents, but it shall be unlawful for any such agent to do any business as specified in this act until he shall have secured from the commissioner of corporations a certificate authorizing him to represent such investment company or investment broker within this state until the first of March following, when it will be necessary to secure a new certificate. For each certificate the commissioner of corporations shall charge the sum of one dollar. Such certificate, however, shall be subject to revocation by the commissioner of corporations at any time for cause appearing to him sufficient.

Investment companies under control of the Commissioner of Corporations. SEC. 8. The commissioner of corporations shall have general supervision and control, as provided in this act, over any and all investment companies and investment brokers, and all such investment companies and investment brokers shall be subject to examination by the commissioner of corporations or a duly authorized deputy at any time the commissioner of corporations may deem it advisable to have such examination made to carry out any provision of this act, and in the same manner and with the same powers as is now, or may hereafter be provided for the examination of state banks.

Examination fee. Such investment company or investment broker shall pay to the commissioner of corporations, for each examination, a fee of ten dollars and traveling expenses for each day or fraction thereof that he or his deputy shall necessarily be absent from his office for the purpose of making such examination, and the failure or refusal of any investment company or investment broker to pay such fee upon the demand of the commissioner of corporations shall work a forfeiture of its or his rights to sell any further securities in this state until such fee shall have been paid to the commissioner of corporations, with interest at the rate of seven per cent from the time of the demand of the commissioner of corporations and an additional twenty-five per cent of such fee by way of penalty.

Advertising. SEC. 9. It shall be unlawful for any investment company, investment broker or agent to issue, circulate or deliver any advertisement, pamphlet, prospectus, circular or statement or other document in regard to securities which it desires to sell in this state until after such investment company, investment broker or agent shall have been licensed to sell such securities as provided in this act. It shall be unlawful for any such licensed investment company, investment broker or agent to issue, circulate or deliver any such advertisement, pamphlet, prospectus, circular, statement or other document, unless the same shall be signed with the name of the investment company or investment broker and bear a serial number and a copy thereof shall first have been filed with the commissioner of corporations. The commissioner of corporations may for cause object to any such advertisement, pamphlet, prospectus, circular, statement or other document, whereupon it shall be unlawful for such investment company, investment broker or agent to further

issue, circulate or deliver such advertisement, pamphlet, prospectus, circular, statement or other document.

SEC. 10. (a) Every investment company, until it shall have sold all the securities authorized by the commissioner of corporations and disposed of the proceeds thereof, shall file in the office of the commissioner of corporations, under date of December 31st and June 30th of each year, and within fifteen days after said dates, and also at such other times as may be required by the commissioner of corporations, a report setting forth in such form as the commissioner of corporations may prescribe, the securities authorized by him and sold under the provisions of this act, the proceeds derived therefrom, the disposition of such proceeds and such other information concerning its affairs relating to the subject matter of this act, as the commissioner of corporations may require.

Investment company must file a report of its purchase and sales.

(b) Every investment broker shall when called upon by the commissioner of corporations file in his office a report giving such information as he may call for, relating to the securities, the sale of which has been authorized under the provisions of this act.

Report of brokers.

SEC. 11. All papers, documents, reports and other instruments in writing filed with the commissioner of corporations under this act shall be open to public inspection; *provided*, that if in his judgment the public welfare or the welfare of any investment company demands that any portion of such information be not made public he may withhold such information from public inspection for such time as in his judgment is necessary.

Reports open to public inspection.

SEC. 12. An appeal may be taken from any decision of the commissioner of corporations under this act by filing with the clerk of the superior court of the State of California, in and for the city and county of San Francisco, a certified transcript of all papers in the office of the commissioner of corporations relating to such decision. It shall be the duty of the commissioner of corporations to make and certify to said transcript upon payment to him of a fee of ten cents for each folio and one dollar for the certification. The court shall upon such appeal be limited to a consideration of the question whether there has been abuse of discretion on the part of the commissioner of corporations in making such decision.

Appeal may be made to superior court.

*Penalty for
misleading
statements.*

SEC. 13. Any person who shall knowingly or wilfully subscribe to or make or cause to be made any false statement or false entry in any book of any investment company or investment broker, or exhibit any false paper with the intention of deceiving any person authorized to examine into its affairs, or who shall make or publish any false or misleading statement of its financial condition or concerning the securities by it offered for sale, shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding one year or by both such fine and imprisonment.

Violations.

SEC. 14. Any corporation, association, copartnership or company which violates or fails to comply with any of the provisions of this act, or which fails, omits or neglects to obey, observe or comply with any order, decision, demand or requirement, or any part or provision thereof, of the commissioner of corporations under the provisions of this act, is subject to a penalty of not less than five hundred dollars nor more than two thousand dollars for each and every offense, which penalty if unpaid after demand by the commissioner of corporations shall be recovered in an action brought in the name of the people of the State of California by the attorney general.

Penalties.

SEC. 15. Every person who violates or fails to comply with any of the provisions of this act or who fails, omits or neglects to obey, observe or comply with any order, decision, demand or requirement, or any part or provision thereof, of the commissioner of corporations under the provisions of this act in any case in which a different penalty is not specifically provided, is guilty of a misdemeanor and is punishable by a fine of not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

*Creation of
state
corporation
department.
Commissioner
of corporations.*

SEC. 16. There is hereby created a state corporation department. The chief officer of such department shall be the commissioner of corporations. He shall be appointed by the governor and hold office at the pleasure of the governor. He shall receive an annual salary of five thousand dollars, to be paid monthly out of the state treasury upon a warrant of the controller. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same

in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars with corporate security or two or more sureties, to be approved by the governor of the state, for the faithful discharge of the duties of his office.

SEC. 17. The commissioner of corporations shall employ such clerks and deputies as he may need to discharge in proper manner the duties imposed upon him by law. Neither the commissioner of corporations nor any of his clerks or deputies shall be interested in any investment company, or investment broker, as director, stockholder, officer, member, agent or employee. Such clerks and deputies shall perform such duties as the commissioner of corporations shall assign to them. He shall fix the compensation of such clerks and deputies which compensation shall be paid monthly on the certificate of the commissioner of corporations, and on the warrant of the controller out of the state treasury; *provided, however*, that the total expenditures provided for in this act shall not exceed fifty thousand dollars per annum. Each deputy shall within fifteen days after his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state.

Deputies.

SEC. 18. The commissioner of corporations shall have his office in the city of Sacramento and he shall from time to time obtain the necessary furniture, stationery, fuel, light and other proper conveniences for the transaction of the business of the state corporation department, the expenses of which shall be paid out of the state treasury on the certificate of the commissioner of corporations and the warrant of the controller.

Office.

SEC. 19. A fund is hereby created to be known as the "corporation commission fund" and out of said fund shall be paid all the expenses incurred in and about the conduct of the business of the corporation department, including the salary of the commissioner and his clerks and deputies, traveling expenses, furnishing rooms and rent. All moneys collected or received by the commissioner of corporations under and by virtue of the provisions of this act shall be delivered by him to the treasurer of the state, who shall deposit the same to the credit of said corporation commission fund. And all such fund so deposited or such part

*"Corporation
commission
fund."*

thereof as may be necessary for the purposes of this act are hereby appropriated to the use of the corporation commission fund for the purposes of this act. It shall be the duty of the commissioner of corporations semi-annually to certify under oath to the state treasurer and secretary of state the total amount of receipts and expenditures of the state corporation department for the six months preceding. All fees and payments of every description required by this act to be paid to the commissioner of corporations shall be paid by him to the state treasurer on the first day of each week following their receipt by the commissioner of corporations.

Seal. SEC. 20. The commissioner of corporations shall adopt a seal with the words "Commissioner of Corporations, State of California," and such other device as the commissioner of corporations may desire engraved thereon by which he shall authenticate the proceedings of his office. Copies of all records and papers in the office of the corporation department shall be received in evidence of all cases equally and with like effect as the originals.

SEC. 21. Every official report made by the commissioner of corporations and every report, duly verified, of an examination made, shall be prima facie evidence of the facts therein stated for all purposes in any action or proceedings wherein any investment company or investment broker is a party.

SEC. 22. If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, sub-section, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

SEC. 23. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 24. The sum of ten thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the purpose of carrying this act into effect.

SEC. 25. This act shall take effect November 1, 1913.

National Bank Act as Amended

CHAPTER ONE.

THE CURRENCY BUREAU.

1. Sec. 1 of the act of June 20, 1874, provides that the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June third, eighteen hundred and sixty-four, shall hereafter be known as the "National-bank act."

*The
national-bank
act.*

2. (SEC. 324.) There shall be in the Department of the Treasury a Bureau charged with the execution of all laws passed by Congress relating to the issue and regulation of a national currency secured by United States bonds, the chief officer of which Bureau shall be called the Comptroller of the Currency, and shall perform his duties under the general direction of the Secretary of the Treasury.

*Comptroller of
the Currency.*

3. (SEC. 325.) The Comptroller of the Currency shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years, unless sooner removed by the President, upon reasons to be communicated by him to the Senate; and he shall be entitled to a salary of five thousand dollars a year.

*His appointment,
term, and salary.*

4. (SEC. 326.) The Comptroller of the Currency shall, within fifteen days from the time of notice of his appointment, take and subscribe the oath of office; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with not less than two responsible sureties, to be approved by the

His qualification.

Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office.

*Deputy
comptroller.*

5. (SEC. 327.) There shall be in the Bureau of the Comptroller of the Currency a Deputy Comptroller of the Currency, to be appointed by the Secretary, who shall be entitled to a salary of two thousand eight hundred dollars a year (increased to three thousand five hundred dollars), and who shall possess the power and perform the duties attached by law to the office of Comptroller during a vacancy in the office or during the absence or inability of the Comptroller. The Deputy Comptroller shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars.

*Interest in
national banks
prohibited.*

6. (SEC. 329.) It shall not be lawful for the Comptroller or the Deputy Comptroller of the Currency, either directly or indirectly, to be interested in any association issuing national currency under the laws of the United States.

Office clerks.

7. (SEC. 328.) The Comptroller of the Currency shall employ, from time to time, the necessary clerks, to be appointed and classified by the Secretary of the Treasury, to discharge such duties as the Comptroller shall direct.

Seal of office.

8. (SEC. 330.) The seal devised by the Comptroller of the Currency for his office, and approved by the Secretary of the Treasury, shall continue to be the seal of office of the Comptroller, and may be renewed when necessary. A description of the seal, with an impression thereof, and a certificate of approval of the Secretary of the Treasury, shall be filed in the office of the Secretary of State.

*Officers,
vaults, etc.*

9. (SEC. 331.) There shall be assigned, from time to time, to the Comptroller of the Currency, by the Secretary of the Treasury, suitable rooms in the Treasury building for conducting the business of the Currency Bureau, containing safe and secure fireproof vaults, in which the Comptroller shall deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department; and the Comp-

troller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the business of his office.

10. (SEC. 333.) The Comptroller of the Currency shall make an annual report to Congress, at the commencement of its session, exhibiting— *Annual report.*

First. A summary of the state and condition of every association from which reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of lawful money held by them at the times of their several returns, and such other information in relation to such associations as in his judgment may be useful. *Condition of national banks.*

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed and the amount outstanding. *Closed banks.*

Third. Any amendment to the laws relative to banking by which the system may be improved and the security of the holders of its notes and other creditors may be increased. *Amendments proposed.*

Fourth. A statement exhibiting under appropriate heads the resources and liabilities and condition of the banks, banking companies, and savings banks organized under the laws of the several States and Territories, such information to be obtained by the Comptroller from the reports made by such banks, banking companies, and savings banks to the legislatures or officers of the different States and Territories, and, where such reports can not be obtained, the deficiency to be supplied from such other authentic sources as may be available. *Condition of other banks.*

Fifth. The names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year. *Employees and expenses.*

11. (SEC. 3811.) When the Annual Report of the Comptroller of the Currency upon the national banks and banks under State *When annual report is printed.*

and Territorial laws is completed, or while it is in process of completion, if thereby the business may be sooner dispatched, the work of printing shall be commenced, under the superintendence of the Secretary, and the whole shall be printed and ready for delivery on or before the first day of December next after the close of the year to which the report relates.

Number of copies to be printed. 12. The act of January 12, 1895, provides that there shall be printed of the Annual Report of the Comptroller of the Currency ten thousand copies; one thousand for the Senate, two thousand for the House, and seven thousand for distribution by the Comptroller of the Currency.

CHAPTER TWO.

ORGANIZATION AND POWERS OF NATIONAL BANKS.

Articles of association. 13. (SEC. 5133.) Associations for carrying on the business of banking under this title may be formed by any number of natural persons, not less in any case than five. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons uniting to form the association, and a copy of them shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

Organization certificate. 14. (SEC. 5134.) The persons uniting to form such an association shall, under their hands, made an organization certificate, which shall specifically state—

Title. First. The name assumed by such association; which shall be subject to the approval of the Comptroller of the Currency.

Location. Second. The place where its operations of discount and deposit are to be carried on, designating the State, Territory, or District, and the particular county and city, town or village.

Third. The amount of capital stock and the number of shares into which the same is to be divided. *Capital stock.*

Fourth. The names and places of residence of the shareholders and the number of shares held by each of them. *Shareholders.*

Fifth. The fact that the certificate is made to enable such persons to avail themselves of the advantages of this Title. *Object of certificate.*

15. (SEC. 5135.) The organization certificate shall be acknowledged before a judge of some court of record or notary public, and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary, transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office. *Execution of organization certificate.*

16. (SEC. 5136.) Upon duly making and filing articles of association and an organization certificate, the association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the same designated in the organization certificate, it shall have power— *Corporate powers.*

First. To adopt and use a corporate seal. *Seal.*

Second. To have succession for the period of twenty years from its organization, unless it is sooner dissolved according to the provisions of its articles of association, or by the act of its shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law. *Term of existence.*

Third. To make contracts. *Contracts.*

Fourth. To sue and be sued, complain and defend, in any court of law and [or] equity, as fully as natural persons. *Suits.*

Fifth. To elect or appoint directors, and by its board of directors to appoint a president, vice-president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places. *Officers.*

Sixth. To prescribe, by its board of directors, by-laws not inconsistent with law, regulating the manner in which its stock shall *By-Laws.*

be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

*Incidental
powers.*

Seventh. To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this Title; but no association shall transact any business except such as is incidental and necessarily preliminary to its organization until it has been authorized by the Comptroller of the Currency to commence the business of banking.

*Amount of
capital stock
required.*

17. (SEC. 5138, as amended by act of March 14, 1900.) No association shall be organized with a less capital than one hundred thousand dollars, except that banks with a capital of not less than fifty thousand dollars may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants, and except that banks with a capital of not less than twenty-five thousand dollars may, with the sanction of the Secretary of the Treasury, be organized in any place the population of which does not exceed three thousand inhabitants. No association shall be organized in a city the population of which exceeds fifty thousand persons with a capital of less than two hundred thousand dollars.

Shares of stock.

18. (SEC. 5139.) The capital stock of each association shall be divided into shares of one hundred dollars each, and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares.

*Payment of
capital stock.*

19. (SEC. 5140.) At least fifty per centum of the capital stock of every association shall be paid in before it shall be author-

ized to commence business; and the remainder of the capital stock of such association shall be paid in installments of at least ten per centum each, on the whole amount of the capital, as frequently as one installment at the end of each succeeding month from the time it shall be authorized by the Comptroller of the Currency to commence business; and the payment of each installment shall be certified to the Comptroller, under oath, by the president or cashier of the association.

20. (SEC. 5141.) Whenever any shareholder, or his assignee, *Enforcing payment of capital.* fails to pay any installment on the stock when the same is required by the preceding section to be paid, the directors of such association may sell the stock of such delinquent shareholder at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city or county where the association is located, or if no newspaper is published in said city or county, then in a newspaper published nearest thereto, to any person who will pay the highest price therefor, to be not less than the amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the cost of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order, within six months from the time of such forfeiture, and if not sold it shall be canceled and deducted from the capital stock of the association.

21. (SEC. 5141). If any such cancellation and reduction shall *Restoration of capital.* reduce the capital of the association below the minimum of capital required by law, the capital stock shall, within thirty days from the date of such cancellation, be increased to the required amount; in default of which a receiver may be appointed, according to the provisions of section fifty-two hundred and thirty-four, to close up the business of the association.

22. (SEC. 5168.) Whenever a certificate is transmitted to the *Examination of organization proceedings.* Comptroller of the Currency, as provided in this Title, and the association transmitting the same notifies the Comptroller that at

least fifty per centum of its capital stock has been duly paid in, and that such association has complied with all the provisions of this Title required to be complied with before an association shall be authorized to commence the business of banking, the Comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of its directors, and the amount of the capital stock of which each is the owner in good faith, and generally whether such association has complied with all the provisions of this Title required to entitle it to engage in the business of banking.

Certificate of officers and directors. 23. (SEC. 5168.) And shall cause to be made and attested by the oaths of a majority of the directors, and by the president or cashier of the association, a statement of all the facts necessary to enable the Comptroller to determine whether the association is lawfully entitled to commence the business of banking.

Deposit of United States bonds. 24. (SEC. 5155.) Every association, after having complied with the provisions of this Title, preliminary to the commencement of the banking business, and before it shall be authorized to commence banking business under this Title, shall transfer and deliver to the Treasurer of the United States, as security for its circulating notes, any United States registered bonds bearing interest, to an amount where the capital is one hundred and fifty thousand dollars or less, of not less than one-fourth of the capital, and fifty thousand dollars where the capital is in excess of one hundred and fifty thousand dollars. (Note.—As amended by sec. 8 of the act of July 12, 1882.)

Comptroller's certificate of authority. 25. (SEC. 5169.) If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it appears that such association is lawfully entitled to commence the business of banking, the Comptroller shall give to such association a certificate, under his

hand and official seal, that such association has complied with all the provisions required to be complied with before commencing the business of banking, and that such association is authorized to commence such business. But the Comptroller may withhold from an association his certificate authorizing the commencement of business whenever he has reason to suppose that the shareholders have formed the same for any other than the legitimate objects contemplated by this Title.

26. (SEC. 5170.) The association shall cause the certificate issued under the preceding section to be published in some newspaper printed in the city or county where the association is located, for at least sixty days next after the issuing thereof; or, if no newspaper is published in such city or county, then in the newspaper published nearest thereto. *Publication of certificate of authority.*

27. (SEC. 5145.) The affairs of each association shall be managed by not less than five directors, who shall be elected by the shareholders at a meeting to be held at any time before the association is authorized by the Comptroller of the Currency to commence the business of banking, and afterward at meetings to be held on such day in January of each year as is specified therefor in the articles of association. The directors shall hold office for one year, and until their successors are elected and have qualified. *Number and election of directors.*

28. (SEC. 5146, as amended February 28, 1905.) Every Director must, during his whole term of service, be a citizen of the United States, and at least three-fourths of the directors must have resided in the State, Territory, or District in which the association is located for at least one year immediately preceding their election, and must be residents therein during their continuance in office. Every director must own, in his own right, at least ten shares of the capital stock of the association of which he is a director, unless the capital of the bank shall not exceed twenty-five thousand dollars, in which case he must own in his own right at least five shares of such capital stock. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place. *Qualifications of directors.*

*Qualifications of
votes at
elections.*

30. (SEC. 5144.) In all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such association shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote.

*Oaths of
directors.*

31. (SEC. 5147.) Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this Title, and that he is the owner in good faith, and in his own right, of the number of shares of stock required by this Title, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated or in any way pledged as security for any loan or debt. Such oath, subscribed by the director making it, and certified by the officer before whom it is taken, shall be immediately transmitted to the Comptroller of the Currency, and shall be filed and preserved in his office.

*Failure to hold
annual election.*

32. (SEC. 5149.) If, from any cause, an election of directors is not made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof in all cases having been given in a newspaper published in the city, town, or county in which the association is located; and if no newspaper is published in such city, town or county such notice shall be published in a newspaper published nearest thereto. If the articles of association do not fix the day on which the election shall be held, or if no election is held on the day fixed, the day for the election shall be designated by the board of directors in their by-laws, or otherwise; or if the directors fail to fix the day, shareholders representing two-thirds of the shares may do so.

*Vacancies in
board of
directors.*

33. (SEC. 5148.) Any vacancy in the board shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election.

34. (SEC. 5150.) One of the directors, to be chosen by the board, shall be the president of the board. *President shall be a director.*
35. (SEC. 5185.) Associations may be organized in the manner prescribed by this Title for the purpose of issuing notes payable in gold. *Organization of gold banks.*
36. The act of February 14, 1880, provides that any national gold bank organized under the provisions of the laws of the United States may, in the manner and subject to the provisions prescribed by section fifty-one hundred and fifty-four of the Revised Statutes of the United States for the conversion of banks incorporated under the laws of any State, cease to be a gold bank and become such an association as is authorized by section fifty-one hundred and thirty-three, for carrying on the business of banking, and shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as are by law prescribed for such associations: *Provided*, That all certificates of organization which shall be issued under this act shall bear the date of the original organization of each bank respectively as a gold bank. *Conversion of gold banks.*
37. (SEC. 5154.) Any bank incorporated by special law, or any banking institution organized under a general law of any State, may become a national association under this Title by the name prescribed in its organization certificate; and in such case the articles of association and the organization certificate may be executed by a majority of the directors of the bank or banking institution; and the certificate shall declare that the owners of two-thirds of the capital stock have authorized the directors to make such certificate, and to change and convert the bank or banking institution into a national association. A majority of the directors, after executing the articles of association and organization certificate, shall have power to execute all other papers, and to do whatever may be required to make its organization perfect and complete as a national association. The shares of any such bank may continue to be for the same amount each as they were before the conversion, and the directors may continue to be the directors of the association until others are elected or appointed in accordance with the provisions of this chapter; and any State bank which is a stockholder in any other bank, by *Conversion of state banks.*

authority of State laws, may continue to hold its stock, although either bank, or both, may be organized under and have accepted the provisions of this Title. When the Comptroller of the Currency has given to such association a certificate, under his hand and official seal, that the provisions of this Title have been complied with, and that it is authorized to commence the business of banking, the association shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as are prescribed for other associations, originally organized as national banking associations, and shall be held and regarded as such an association. But no such association shall have a less capital than the amount prescribed for associations organized under this Title.

*Capital of
state banks.*

38. (SEC. 3410.) The capital of any State bank or banking association which has ceased or shall cease to exist, or which has been or shall be converted into a national bank, shall be assumed to be the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid.

*Converted banks
may retain
branches.*

39. (SEC. 5155.) It shall be lawful for any bank or banking association, organized under State laws and having branches, the capital being joint and assigned to and used by the mother bank and branches in definite proportions, to become a national banking association in conformity with existing laws and to retain and keep in operation its branches, or such one or more of them as it may elect to retain, the amount of the circulation redeemable at the mother bank and each branch to be regulated by the amount of capital assigned to and used by each.

*Personal liability
of shareholders.*

40. (SEC. 5151.) The shareholders of every national banking association shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares, except that shareholders of any banking association now existing under State laws having not less than five millions of dollars of capital actually paid in and a surplus of

twenty per centum on hand, both to be determined by the Comptroller of the Currency, shall be liable only to the amount invested in their shares; and such surplus of twenty per centum shall be kept undiminished, and be in addition to the surplus provided for in this Title; and if at any time there is a deficiency in such surplus of twenty per centum such association shall not pay any dividends to its shareholders until the deficiency is made good; and in case of such deficiency the Comptroller of the Currency may compel the association to close its business and wind up its affairs under the provisions of chapter four of this Title.

41. (SEC. 5152.) Persons holding stock as executors, administrators, guardians, or trustees shall not be personally subject to any liability as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be if living and competent to act and hold the stock in his own name. *Exceptions for trustees, etc.*

42. Sec. 5139 provides that no change shall be made in the articles of association of a national bank by which the rights, remedies, or security of the existing creditors of the association shall be impaired. *Amendment of articles restricted.*

43. (SEC. 5142.) Any association formed under this Title may, by its articles of association, provide for an increase of its capital from time to time, as may be deemed expedient, subject to the limitations of this Title. But the maximum of such increase to be provided in the articles of association shall be determined by the Comptroller of the Currency. Sec. 1 of the act of May 1, 1886, provides that any national banking association may, with the approval of the Comptroller of the Currency, by the vote of shareholders owning two-thirds of the stock of such association, increase its capital stock, in accordance with existing laws, to any sum approved by the said Comptroller, notwithstanding the limit fixed in its original articles of association and determined by said Comptroller; and no increase of the capital stock of any national banking association either within or beyond the limit fixed in its *Increase of capital stock.*

original articles of association shall be made except in the manner herein provided.

When increase becomes valid.

44. (SEC. 5142.) And no increase of capital shall be valid until the whole amount of such increase is paid in, and notice thereof has been transmitted to the Comptroller of the Currency, and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of such association.

Reduction of capital stock.

45. (SEC. 5143.) Any association formed under this Title may, by the vote of shareholders owning two-thirds of its capital stock, reduce its capital to any sum not below the amount required by this Title to authorize the formation of associations, but no such reduction shall be allowable which will reduce the capital of the association below the amount required for its outstanding circulation, nor shall any such reduction be made until the amount of the proposed reduction has been reported to the Comptroller of the Currency and his approval thereof obtained.

Change of title and location.

46. Secs. 2, 3 and 4 of the act of May 1, 1886, provide:

SEC. 2. That any national banking association may change its name or the place where its operations of discount and deposit are to be carried on to any other place within the same State, not more than thirty miles distant, with the approval of the Comptroller of the Currency, by the vote of shareholders owning two-thirds of the stock of such association. A duly authenticated notice of the vote and of the new name or location selected shall be sent to the office of the Comptroller of the Currency, but no change of name or location shall be valid until the Comptroller shall have issued his certificate of approval of the same.

SEC. 3. That all debts, liabilities, rights, provisions, and powers of the association under its old name shall devolve upon and inure to the association under its new name.

SEC. 4. That nothing in this act contained shall be so construed as in any manner to release any national banking association under its old name or at its old location from any liability, or affect any

action or proceeding in law in which said association may be or become a party or interested.

47. (SEC. 5156.) That nothing in this title shall affect any appointments made, acts done, or proceedings had or commenced prior to the third day of June, eighteen hundred and sixty-four, in or toward the organization of any national banking association under the act of February twenty-five, eighteen hundred and sixty-three; but all associations which on the third day of June, eighteen hundred and sixty-four, were organized or commenced to be organized under that act shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by this Title, notwithstanding all the steps prescribed by this Title for the organization of associations were not pursued, if such associations were duly organized under that act.

*Status of national
banks organized
under the act of
February 25,
1863.*

NOTE.—See page 217 for Additional Circulation Act of May 30, 1908.

CHAPTER THREE.

BANK CIRCULATION.

48. (SEC. 5158.) The term "United States Bonds," as used throughout this chapter, shall be construed to mean registered bonds of the United States.

*United States
bonds defined.*

49. (Sec. 5159 as amended by section 8, act of July 12, 1882, and section 1, act of December 21, 1905.) Every association, after having complied with the provisions of this Title, preliminary to the commencement of the banking business, and before it shall be authorized to commence banking business under this Title, shall transfer and deliver to the Treasurer of the United States any United States registered bonds, bearing interest, or Panama canal bonds, to an amount not less than one-fourth of the capital; the capital being \$150,000 or less, as security for their circulating notes. Such bonds shall be received by the Treasurer upon deposit and shall be by him safely kept in his office until they shall be otherwise disposed of in pursuance of the provisions of this Title.

*Security for
circulation.*

Section 4, act of June 20, 1874, provides in part that the amount of bonds on deposit for circulation shall not be reduced below \$50,000. This determines the amount of bonds required to be deposited by banks organizing with capital stock of over \$150,000.

(See sec. 5159 of the United States Revised Statutes; sec. 4, act of June 20, 1874; sec 8, act of July 12, 1882, and act of March 14, 1900, as to relation of bond deposit to capital.)

Relation of bond deposit to capital. 50. (SEC. 5160.) The deposit of bonds made by each association shall be increased as its capital may be paid up or increased, so that every association shall at all times have on deposit with the Treasurer registered United States bonds to the amount required by law. And any association that may desire to reduce its capital or close up its business and dissolve its organization may take up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter required, or may take up any excess of bonds beyond the amount required by law, and upon which no circulating notes have been delivered.

Exchange of bonds. 51. (SEC. 5161.) To facilitate a compliance with the two preceding sections, the Secretary of the Treasury is authorized to receive from any association, and cancel, any United States coupon bonds, and to issue in lieu thereof registered bonds of like amount, bearing a like rate of interest, and having the same time to run.

Bonds held by treasurer. 52. (SEC. 5162.) All transfers of United States bonds made by any association under the provisions of this Title shall be made to the Treasurer of the United States in trust for the association, with a memorandum written or printed on each bond, and signed by the cashier, or some other officer of the association making the deposit. A receipt shall be given to the association, by the Comptroller of the Currency, or by a clerk appointed by him for that purpose, stating that the bond is held in

trust for the association on whose behalf the transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bond by the Treasurer shall be deemed valid unless countersigned by the Comptroller of the Currency.

53. (SEC. 5163.) The Comptroller of the Currency shall keep in his office a book in which he shall cause to be entered, immediately upon countersigning it, every transfer or assignment by the Treasurer, of any bonds belonging to a national banking association, presented for his signature. He shall state in such entry the name of the association from whose account the transfer is made, the name of the party to whom it is made, and the par value of the bonds transferred. *Record of bond transfers.*

54. (SEC. 5164.) The Comptroller of the Currency shall, immediately upon countersigning and entering any transfer or assignment by the Treasurer of any bonds belonging to a national banking association, advise by mail the association from whose accounts the transfer is made of the kind and numerical designation of the bonds and the amount thereof so transferred. *Notice of transfer.*

55. (SEC. 5165.) The Comptroller of the Currency shall have at all times, during office hours, access to the books of the Treasurer of the United States for the purpose of ascertaining the correctness of any transfer or assignment of the bonds deposited by an association presented to the Comptroller to countersign; and the Treasurer shall have the like access to the book mentioned in section fifty-one hundred and sixty-three, during office hours, to ascertain the correctness of the entries in the same; and the Comptroller shall also at all times have access to the bonds on deposit with the Treasurer to ascertain their amount and condition. *Examination of bonds and records.*

56. (SEC. 5166.) Every association having bonds deposited in the office of the Treasurer of the United States shall, once or oftener in each fiscal year, examine and compare *Annual examination of bonds.*

the bonds pledged by the association with the books of the Comptroller of the Currency and with the accounts of the association, and, if they are found correct, to execute to the Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the Treasurer at the date of the certificate. Such examination shall be made at such time or times during the ordinary business hours as the Treasurer and the Comptroller, respectively, may select, and may be made by an officer or agent of such association, duly appointed in writing for that purpose; and his certificate before mentioned shall be of like force and validity as if executed by the president and cashier. A duplicate of such certificate, signed by the Treasurer, shall be retained by the association.

General provisions respecting bonds. 57. (SEC. 5167.) The bonds transferred to and deposited with the Treasurer of the United States by any association for the security of its circulating notes shall be held exclusively for that purpose until such notes are redeemed, except as provided in this Title. The Comptroller of the Currency shall give to any such association powers of attorney to receive and appropriate to its own use the interest on the bonds which it has so transferred to the Treasurer; but such powers shall become inoperative whenever such association fails to redeem its circulating notes. Whenever the market or cash value of any bonds thus deposited with the Treasurer is reduced below the amount of the circulation issued for the same the Comptroller may demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association, to be deposited with the Treasurer as long as such depreciation continues. And the Comptroller, upon the terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the Treasurer by any association for other bonds of the United States authorized to be received as security for circulating notes if he is of opinion that such an exchange can be made

without prejudice to the United States; and he may direct the return of any bonds to the association which transferred the same, in sums of not less than one thousand dollars, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That the remaining bonds which shall have been transferred by the association offering to surrender circulating notes are equal to the amount required for the circulating notes not surrendered by such association, and that the amount of bonds in the hands of the Treasurer is not diminished below the amount required to be kept on deposit with him, and that there has been no failure by the association to redeem its circulating notes, nor any other violation by it of the provisions of this Title, and that the market or cash value of the remaining bonds is not below the amount required for the circulation issued for the same.

58. Sec. 10 of the act of July 12, 1882, as amended by act of March 14, 1900, provides that upon the deposit with the Treasurer of the United States, by any national banking association, of any bonds of the United States in the manner provided by existing law, such association shall be entitled to receive from the Comptroller of the Currency circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited; and any national banking association now having bonds on deposit for the security of circulating notes, and upon which an amount of circulating notes has been issued less than the par value of the bonds, shall be entitled, upon due application to the Comptroller of the Currency, to receive additional circulating notes in blank to an amount which will increase the circulating notes held by such association to the par value of the bonds deposited, such additional notes to be held and treated in the same way as circulating notes of national banking associations heretofore issued, and subject to all the provisions of law affecting such notes: *Provided*, That the circulating notes furnished to national banking

*Amount of
circulation
obtainable.*

associations under the provisions of this act shall be of the denominations prescribed by law, except that no national banking association shall, after the passage of this act, be entitled to receive from the Comptroller of the Currency, or to issue or reissue or place in circulation, more than one-third in amount of its circulating notes of the denomination of five dollars: *And Provided, further, That* the total amount of such notes issued to any such association may equal at any time but shall not exceed the amount at such time of its capital stock actually paid in.

*Preparation of
bank circulation.*

“SEC. 5172. (As amended May thirtieth, nineteen hundred and eight.) In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, one thousand dollars, and ten thousand dollars, as may be required to supply the associations entitled to receive the same. Such notes shall state upon their face that they are secured by United States bonds or other securities, certified by the written or engraved signatures of the Treasurer and Register and by the imprint of the seal of the Treasury. They shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signature of the president or vice-president and cashier. The Comptroller of the Currency, acting under the direction of the Secretary of the Treasury, shall as soon as practicable cause to be prepared circulating notes in blank, registered and countersigned, as provided by law, to an amount equal to fifty per centum of the capital stock of each national banking association; such notes to be deposited in the Treasury or in the subtreasury of the United States nearest the place of business of each association, and to be held for such association, subject to the order of the Comptroller of the Currency, for their delivery as provided by law: *Provided, That* the Comptroller of the Currency may issue national bank notes of the

present form until plates can be prepared and circulating notes issued as above provided: *Provided, however,* That in no event shall bank notes of the present form be issued to any bank as additional circulation provided for by this Act."

60. Sec. 5 of the act of June 20, 1874, provides that the Comptroller of the Currency shall, under such rules and regulations as the Secretary of the Treasury may prescribe, cause the charter numbers of the associations to be printed upon all national-bank notes which may be hereafter issued by him. *Circulation shall bear charter number.*

61. (SEC. 5173.) The plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction and the expenses necessarily incurred in executing the laws respecting the procuring of such notes and all other expenses of the Bureau of the Currency [except as provided by sec. 3, act June 20, 1874, and secs. 6 and 8, act of July 12, 1882] shall be paid out of the proceeds of the taxes or duties assessed and collected on the circulation of national banking associations under this Title. *Control of plates and dies.*

62. (SEC. 5174.) The Comptroller of the Currency shall cause to be examined, each year, the plates, dies, but pieces [bed pieces], and other material from which the national-bank circulation is printed, in whole or in part, and file in his office annually a correct list of the same. Such material as shall have been used in the printing of the notes of associations which are in liquidation, or have closed business, shall be destroyed, under such regulations as shall be prescribed by the Comptroller of the Currency and approved by the Secretary of the Treasury. The expenses of any such examination or destruction shall be paid out of any appropriation made by Congress for the special examination of national banks and bank-note plates. *Examination of plates and dies.*

63. (SEC. 5182.) After any association receiving circulating notes under this Title has caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand at its place of business, such association may issue and circulate the same as money. And the *Circulation, for what receivable.*

same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency.

*Circulation of
gold banks.*

64. (SEC. 5185.) Associations may be organized in the manner prescribed by this Title for the purpose of issuing notes payable in gold; and upon the deposit of any United States bonds bearing interest payable in gold with the Treasurer of the United States, in the manner prescribed for other associations, it shall be lawful for the Comptroller of the Currency to issue to the association making the deposit circulating notes of different denominations, but none of them of less than five dollars, and not exceeding in amount eighty per centum of the par value of the bonds deposited, which shall express the promise of the association to pay them, upon presentation at the office at which they are issued, in gold coin of the United States, and shall be so redeemable.

*Worn-out or
mutilated
circulation.*

65. (SEC. 5184.) It shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any banking association, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to the association other blank circulating notes to an equal amount. Such worn-out or mutilated notes, after a memorandum has been entered in the proper books, in accordance with such regulations as may be established by the Comptroller, as well as all circulating notes which shall have been paid or surrendered to be canceled, shall be macerated in presence of four persons, one to be appointed by the Secretary of the Treasury, one by the Comptroller of the Currency, one by the Treasurer of the United States, and one by the association, under such regulations as the Secretary of the Treasury may prescribe. A certificate of such maceration, signed by the parties so appointed, shall be made in the books of the Comptroller, and a duplicate thereof forwarded to the association whose notes are thus canceled.

66. Sec. 3 of the act of June 20, 1874, provides that every association organized, or to be organized, under the provisions of the said act, and of the several acts amendatory thereof, shall at all times keep and have on deposit in the Treasury of the United States, in lawful money of the United States, a sum equal to five per centum of its circulation, to be held and used for the redemption of such circulation; which sum shall be counted as a part of its lawful reserve, as provided in section two of this act; and when the circulating notes of any such associations, assorted or unassorted, shall be presented for redemption, in sums of one thousand dollars or any multiple thereof, to the Treasurer of the United States, the same shall be redeemed in United States notes. All notes so redeemed shall be charged by the Treasurer of the United States to the respective associations issuing the same, and he shall notify them severally, on the first day of each month, or oftener, at his discretion, of the amount of such redemptions; and whenever such redemptions for any association shall amount to the sum of five hundred dollars, such association so notified shall forthwith deposit with the Treasurer of the United States a sum in United States notes equal to the amount of its circulating notes so redeemed. And all notes of national banks, worn, defaced, mutilated, or otherwise unfit for circulation, shall, when received by any assistant treasurer, or at any designated depository of the United States, be forwarded to the Treasurer of the United States for redemption as provided herein. And when such redemptions have been so reimbursed, the circulating notes so redeemed shall be forwarded to the respective associations by which they were issued; but if any of such notes are worn, mutilated, defaced, or rendered otherwise unfit for use, they shall be forwarded to the Comptroller of the Currency and destroyed, and replaced as now provided by law: *Provided*, That each of said associations shall reimburse to the Treasury the charges for transportation and the costs for assorting such notes; and the associations hereafter organized shall also severally reimburse to the Treasury the cost of engraving such plates as shall be ordered by each association respectively; and the amount assessed upon each association shall be in proportion to the circulation redeemed, and be charged to the fund on deposit with the Treasurer.

Withdrawing circulation. 67. Sec. 4 of the act of June 20, 1874, provides that any association organized under this act, or any of the acts of which this is an amendment, desiring to withdraw its circulating notes, in whole or in part, may, upon the deposit of lawful money with the Treasurer of the United States in sums of not less than nine thousand dollars, take up the bonds which said association has on deposit with the Treasurer for the security of such circulating notes, which bonds shall be assigned to the bank in the manner specified in the nineteenth section of the national-bank act; and the outstanding notes of said association, to an amount equal to the legal-tender notes deposited, shall be redeemed at the Treasury of the United States, and destroyed as now provided by law: *Provided*, That the amount of the bonds on deposit for circulation shall not be reduced below fifty thousand dollars.

General provisions for withdrawing circulation. 68. The act of July 12, 1882, provides: (SEC. 8.) That the national banks which shall hereafter make deposits of lawful money for the retirement in full of their circulation shall, at the time of their deposit, be assessed for the cost of transporting and redeeming their notes then outstanding, a sum equal to the average cost of the redemption of national-bank notes during the preceding year, and shall thereupon pay such assessment; and all national banks which have heretofore made or shall hereafter make deposits of lawful money for the reduction of their circulation shall be assessed, and shall pay an assessment in the manner specified in section three of the act approved June twentieth, eighteen hundred and seventy-four, for the cost of transporting and redeeming their notes redeemed from such deposits subsequently to June thirtieth, eighteen hundred and eighty-one.

SEC. 9. (As amended May thirtieth, nineteen hundred and eight.) That any national banking association desiring to withdraw its circulating notes, secured by deposit of United States bonds in the manner provided in section four of the Act approved June twentieth, eighteen hundred and seventy-four, is hereby authorized for that purpose to deposit lawful money with the Treasurer of the United

States and, with the consent of the Comptroller of the Currency and the approval of the Secretary of the Treasury to withdraw a proportionate amount of bonds held as security for its circulating notes in the order of such deposits: *Provided*, That not more than nine millions of dollars of lawful money shall be so deposited during any calendar month for this purpose.

“Any national banking association desiring to withdraw any of its circulating notes, secured by the deposit of securities other than bonds of the United States, may make such withdrawal at any time in like manner and effect by the deposit of lawful money or national bank notes with the Treasurer of the United States, and upon such deposit a proportionate share of the securities so deposited may be withdrawn: *Provided*, That the deposits under this section to retire notes secured by the deposit of securities other than bonds of the United States shall not be covered into the Treasury, as required by section six of an Act entitled ‘An Act directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes,’ approved July fourteenth, eighteen hundred and ninety, but shall be retained in the Treasury for the purpose of redeeming the notes of the bank making such deposit.”

69. Sec. 6 of the act of July 12, 1882, provides that the circulating notes of any association so extending the period of its succession which shall have been issued to it prior to such extension shall be redeemed at the Treasury of the United States, as provided in section three of the act of June twentieth, eighteen hundred and seventy-four, entitled “An act fixing the amount of United States notes, providing for redistribution of national bank currency, and for other purposes,” and such notes when redeemed shall be forwarded to the Comptroller of the Currency, and destroyed, as now provided by law; and at the end of three years from the date of the extension of the corporate existence of each bank the association so extended shall deposit lawful money with the Treasurer of the United States sufficient to redeem the remainder of the circulation which was outstanding at the date of its extension, as

*Circulation of
extended banks.*

provided in sections fifty-two hundred and twenty-two, fifty-two hundred and twenty-four, and fifty-two hundred and twenty-five of the Revised Statutes; and any gain that may arise from the failure to present such circulating notes for redemption shall inure to the benefit of the United States; and from time to time, as such notes are redeemed or lawful money deposited therefor as provided herein, new circulating notes shall be issued as provided for by this act, bearing such devices, to be approved by the Secretary of the Treasury, as shall make them readily distinguishable from the circulating notes heretofore issued: *Provided, however,* That each banking association which shall obtain the benefit of this act shall reimburse to the Treasury the cost of preparing the plate or plates for such new circulating notes as shall be issued to it.

Circulation of liquidating banks. 70. (SEC. 5225.) Whenever the Treasurer has redeemed any of the notes of an association which has commenced to close its affairs, he shall cause the notes to be mutilated and charged to the redemption account of the association; and all notes so redeemed by the Treasurer shall, every three months, be certified to and destroyed in the manner prescribed in section fifty-one hundred and eighty-four.

Circulation of closed banks. 71. Sec. 8 of the act of June 20, 1874, provides: And it shall be the duty of the Treasurer, assistant treasurers, designated depositaries, and national bank depositaries of the United States to assort and return to the Treasury for redemption the notes of such national banks as have failed, or gone into voluntary liquidation for the purpose of winding up their affairs, and of such as shall hereafter so fail or go into liquidation.

Regulations for redemption records. 72. (SEC. 5232.) The Secretary of the Treasury may, from time to time, make such regulations respecting the disposition to be made of circulating notes after presentation at the Treasury of the United States for payment, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper.

Redeemed notes to be canceled. 73. (SEC. 5233.) All notes of national banking associations presented at the Treasury of the United States for payment shall, on being paid, be canceled.

74. Sec. 3 of the act approved June 20, 1874, provides that when the circulating notes of any such associations, assorted or unassorted, shall be presented for redemption, in sums of one thousand dollars or any multiple thereof, to the Treasurer of the United States, the same shall be redeemed in United States notes.

*Redemption in
United States
notes.*

75. Sec. 6 of the act of July 14, 1890, provides that upon the passage of this act the balances standing with the Treasurer of the United States to the respective credits of national banks for deposits made to redeem the circulating notes of such banks, and all deposits thereafter received for like purpose, shall be covered into the Treasury as a miscellaneous receipt, and the Treasurer of the United States shall redeem from the general cash in the Treasury the circulating notes of said banks which may come into his possession subject to redemption; and upon the certificate of the Comptroller of the Currency that such notes have been received by him and that they have been destroyed and that no new notes will be issued in their place, reimbursement of their amount shall be made to the Treasurer, under such regulations as the Secretary of the Treasury may prescribe, from an appropriation hereby created, to be known as "national-bank notes, redemption account." But the provisions of this act shall not apply to the deposits received under section three of the act of June twentieth, eighteen hundred and seventy-four, requiring every national bank to keep in lawful money with the Treasurer of the United States a sum equal to five per centum of its circulation, to be held and used for the redemption of its circulating notes; and the balance remaining of the deposits so covered shall, at the close of each month, be reported on the monthly public debt statement as debt of the United States bearing no interest.

*Disposition of
redemption
account.*

76. The act of July 28, 1892, stipulates that the provisions of the Revised Statutes of the United States, providing for the redemption of national-bank notes shall apply to all national-bank notes that have been or may be issued to, or received by, any national bank, notwithstanding such notes may have been lost by or stolen from the bank and put in circulation without signature

*Redemption of
incomplete
circulation.*

or upon the forged signature of the president or vice-president and cashier.

*Banks take
circulation
at par.*

77. (SEC. 5196.) Every national banking association formed or existing under this Title shall take and receive at par for any debt or liability to it, any and all notes or bills issued by any lawfully organized national banking association. But this provision shall not apply to any association organized for the purpose of issuing notes payable in gold.

*Issue of other
notes prohibited.*

78. (SEC. 5183.) No national banking association shall issue post notes or any other notes to circulate as money than such as are authorized by the provisions of this Title.

*Fraudulent notes
to be marked.*

79. Sec. 5 of the act of June 30, 1876, provides that all United States officers charged with the receipt or disbursement of public moneys, and all officers of national banks, shall stamp or write in plain letters the word "counterfeit," "altered," or "worthless," upon all fraudulent notes issued in the form of and intended to circulate as money which shall be presented at their places of business; and if such officer shall wrongfully stamp any genuine note of the United States, or of the national banks, they shall upon presentation, redeem such notes at the face value thereof.

NOTE.—See page 217 for additional Circulation Act of May 30, 1908.

CHAPTER FOUR.

TAX ON CIRCULATION.

*Tax on
circulation.*

"SEC. 5214. (As amended May thirtieth, nineteen hundred and eight.) National banking associations having on deposit bonds of the United States, bearing interest at the rate of two per centum per annum, including the bonds issued for the construction of the Panama Canal, under the provisions of section eight of 'An Act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans,' approved June twentieth, nineteen hundred and two, to secure its circulating notes, shall pay to the Treasurer of the United States, in the months of January and July, a tax of one-fourth of one per centum each half year upon the average amount of

such of its notes in circulation as are based upon the deposit of such bonds; and such associations having on deposit bonds of the United States bearing interest at a rate higher than two per centum per annum shall pay a tax of one-half of one per centum each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds. National banking associations having circulating notes secured otherwise than by bonds of the United States shall pay for the first month a tax at the rate of five per centum per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax of one per centum per annum for each month until a tax of ten per centum per annum is reached, and thereafter such tax of ten per centum per annum, upon the average amount of such notes. Every national banking association having outstanding circulating notes secured by a deposit of other securities than United States bonds shall make monthly returns, under oath of its president or cashier, to the Treasurer of the United States, in such form as the Treasurer may prescribe, of the average monthly amount of its notes so secured in circulation; and it shall be the duty of the Comptroller of the Currency to cause such reports of notes in circulation to be verified by examination of the banks' records. The taxes received on circulating notes secured otherwise than by bonds of the United States shall be paid into the Division of Redemption of the Treasury and credited and added to the reserve fund held for the redemption of United States and other notes."

81. (SEC. 5215.) In order to enable the Treasurer to assess the duties imposed by the preceding sections, each association shall within ten days from the first days of January and July of each year, make a return, under the oath of its president or cashier, to the Treasurer of the United States, in such form as the Treasurer may prescribe, of the average amount of its notes in circulation for the six months next preceding the most recent *Semi-annual return of circulation.*

first day of January or July. Every association which fails so to make such returns shall be liable to a penalty of two hundred dollars, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States.

*Proceedings on
default.*

82. (SEC. 5216.) Whenever any association fails to make the half yearly return required by the preceding section, the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency.

*Enforcing tax
on circulation.*

83. (SEC. 5217.) Whenever an association fails to pay the duties imposed by the three preceding sections, the sums due may be collected in the manner provided for the collection of United States taxes from other corporations; or the Treasurer may reserve the amount out of the interest, as it may become due, on the bonds deposited with him by such defaulting association.

*Refunding
excess tax.*

84. (SEC. 5218.) In all cases where an association has paid or may pay in excess of what may be or has been found due from it, on account of the duty required to be paid to the Treasurer of the United States, the association may state an account therefor, which, on being certified by the Treasurer of the United States, and found correct by the Comptroller of the Treasury, shall be refunded in the ordinary manner by warrant on the Treasury.

*Circulation,
when exempt
from tax.*

85. (SEC. 3411.) Whenever the outstanding circulation of any bank, association, corporation, company, or person is reduced to an amount not exceeding five per centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation; and whenever any bank which has ceased to issue notes for circulation deposits in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury shall prescribe, it shall be exempt from any tax upon such circulation.

86. Secs. 19, 20, and 21 of the act of February 8, 1875, provide: *Tax on unauthorized circulation.*

SEC. 19. That every person, firm, association, other than national banking associations, and every corporation, State bank, or State banking association shall pay a tax of ten per centum on the amount of their own notes used for circulation and paid out by them.

SEC. 20. That every such person, firm, association, corporation, State bank, or State banking association, and also every national banking association, shall pay a like tax of ten per centum on the amount of notes of any person, firm, association, other than a national banking association, or of any corporation, State bank, or State banking association, or of any town, city, or municipal corporation, used for circulation and paid out by them.

SEC. 21. That the amount of such circulating notes, and of the tax due thereon, shall be returned, and the tax paid at the same time, and in the same manner, and with like penalties for failure to return and pay the same, as provided by law for the return and payment of taxes on deposits, capital, and circulation imposed by the existing provisions of internal-revenue law.

87. (SEC. 3414.) A true and complete return of the monthly amount of circulation, as aforesaid, and of the monthly amount of notes of persons, town, city, or municipal corporations, State banks, or State banking associations paid out as aforesaid for the previous six months, shall be made and rendered in duplicate on the first day of December and the first day of June by each of such banks, associations, corporations, companies, or persons, with a declaration annexed thereto, under the oath of such person, or of the president, or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amounts subject to tax, as aforesaid; and one copy shall be transmitted to the collector of the district in which any such bank, association, corporation, or company is situated, or in which such person has his place of business, and one copy to the Commissioner of Internal Revenue. *Semi-annual return of taxable circulation.*

Failure to make such return. 88. (SEC. 3415.) In default of the returns provided in the preceding section the amount of circulation and notes of persons, town, city, and municipal corporations, State banks, and State banking associations paid out as aforesaid, shall be estimated by the Commissioner of Internal Revenue, upon the best information he can obtain. And for any refusal or neglect to make return and payment any such bank, association, corporation, company, or person so in default shall pay a penalty of two hundred dollars, besides the additional penalty and forfeitures provided in other cases,

Tax on converted bank circulation. 89. (SEC. 3416.) Whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, by any agreement or understanding whatever with the representatives of such State bank or banking association, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per centum of the capital before such conversion of such State bank or banking association.

Tax provisions restricted. 90. (SEC. 3417.) The provisions of this chapter relating to the tax on the circulation of banks and to their returns, except as contained in sections thirty-four hundred and eleven, thirty-four hundred and twelve, thirty-four hundred and thirteen, and thirty-four hundred and sixteen, and such parts of sections thirty-four hundred and fourteen and thirty-four hundred and fifteen as relate to the tax of ten per centum on certain notes, shall not apply to associations which are taxed under and by virtue of Title "NATIONAL BANKS."

Taxation of notes, etc. 91. (SEC. 3701.) All stocks, bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal or local authority. The act of August 13, 1894, provides: (SEC. 1.) That circulating notes of national banking associations and United States legal-tender notes and other notes and certificates of the United States, payable on demand and circulating or intended to circulate as currency, and gold, silver, or other coin shall be subject to taxation as money on hand

or on deposit under the laws of any State or Territory: *Provided*, That any such taxation shall be exercised in the same manner and at the same rate that any such State or Territory shall tax money or currency circulating as money within its jurisdiction.

SEC. 2. That the provisions of this act shall not be deemed or held to change existing laws in respect of the taxation of national banking associations.

CHAPTER FIVE.

REGULATION OF THE BANKING BUSINESS.

92. (SEC. 5157.) The provisions of chapters two, three, and four [three, five, and seven of this edition] of this Title, which are expressed without restrictive words, as applying to "national banking association," or to "associations," apply to all associations organized to carry on the business of banking under any act of Congress. *Laws governing certain associations.*

93. (SEC. 5190.) The usual business of each national banking association shall be transacted at an office or banking house located in the place specified in its organization certificate. *Place of business.*

94. (SEC. 5191.) Every national banking association in either of the following cities: Albany, Baltimore, Boston, Cincinnati, Chicago, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburg, Saint Louis, San Francisco, and Washington, shall at all times have on hand in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its deposits in all respects; and every other association shall at all times have on hand, in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate amount of its deposits in all respects. (See paragraphs 104 and 105.) *Reserve cities and reserve requirements.*

NOTE—Act of May 30, 1908.

"SEC. 14. That the provisions of section fifty-one hundred and ninety-one of the Revised Statutes, with reference to the reserves of national banking associations, shall not apply to deposits of public moneys by the United States in designated depositories." *No reserve need be held against deposits of public money.*

Reserve not maintained. 95. (SEC. 5191.) Whenever the lawful money of any association in any of the cities named shall be below the amount of twenty-five per centum of its deposits, and whenever the lawful money of any other association shall be below fifteen per centum of its deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its deposits and its lawful money of the United States has been restored. And the Comptroller of the Currency may notify any association, whose lawful-money reserve shall be below the amount above required to be kept on hand, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money, the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association, as provided in section fifty-two hundred and thirty-four.

Reserve agents' balances counted as reserve. 96. (SEC. 5192.) Three-fifths of the reserve of fifteen per centum required by the preceding section to be kept may consist of balances due to an association from associations approved by the Comptroller of the Currency, organized under the act of June three, eighteen hundred and sixty-four, or under this Title, and doing business in the cities of Albany, Baltimore, Boston, Charleston, Chicago, Cincinnati, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburg, Richmond, Saint Louis, San Francisco, and Washington.

Clearing-house certificates counted as reserve. 97. Clearing-house certificates, representing specie or lawful money specially deposited for the purpose, of any clearing-house association shall also be deemed to be lawful money in the possession of any association belonging to such clearing house, holding and owning such certificate, within the preceding section.

Redemption fund counted as reserve. 98. Sec. 3 of the act of June 20, 1874, provides that the five per cent redemption fund, which shall at all times be kept on deposit with the Treasurer of the United States, shall be counted as a part of the lawful reserve.

99. (SEC. 5193.) The Secretary of the Treasury may receive United States notes on deposit, without interest, from any national

banking association, in sums of not less than ten thousand dollars, and issue certificates therefor in such form as he may prescribe, in denominations of not less than five thousand dollars, and payable on demand in United States notes at the place where the deposits were made. The notes so deposited shall not be counted as part of the lawful-money reserve of the association; but the certificates issued therefor may be counted as part of its lawful-money reserve, and may be accepted in the settlement of clearing-house balances at the places where the deposits therefor were made. (Repealed March 14, 1900.) *United States note certificates counted as reserve.*

100. (SEC. 5194.) The power conferred on the Secretary of the Treasury by the preceding section shall not be exercised so as to create any expansion or contraction of the currency; and United States notes for which certificates are issued under that section, or other United States notes of like amount, shall be held as special deposits in the Treasury and used only for redemption of such certificates. *Redemption of such certificates.*

101. Sec. 12 of the act of July 12, 1882, provides that the Secretary of the Treasury is authorized and directed to receive deposits of gold coin with the Treasurer or assistant treasurers of the United States, in sums of not less than twenty dollars, and to issue certificates therefor in denominations of not less than twenty dollars each, corresponding with the denominations of United States notes. The coin deposited for or representing the certificates of deposit shall be retained in the Treasury for the payment of the same on demand. Said certificates shall be receivable for customs, taxes, and all public dues, and when so received may be reissued; and such certificates, as also silver certificates, when held by any national banking association, shall be counted as part of its lawful reserve; and no national banking association shall be a member of any clearing house in which such certificates shall not be receivable in the settlement of clearing-house balances: *United States gold certificates counted as reserve.* *Provided,* That the Secretary of the Treasury shall suspend the issue of such gold certificates whenever the amount of gold coin and gold bullion in the Treasury reserved for the redemption of United States notes falls below one hundred millions of dollars; and the provisions of section fifty-two hundred and seven of the

Revised Statutes shall be applicable to the certificates herein authorized and directed to be issued.

Reserve requirements for gold banks. 102. (SEC. 5186.) Every association organized for the purpose of issuing notes payable in gold shall at all times keep on hand not less than twenty-five per centum of its outstanding circulation, in gold or silver coin of the United States; and shall receive at par in the payment of debts the gold notes of every other such association which at the time of such payment is redeeming its circulating notes in gold coin of the United States, and shall be subject to all the provisions of this Title: *Provided*, That in applying the same to associations organized for issuing gold notes, the terms "lawful money" and "lawful money of the United States" shall be construed to mean gold or silver coin of the United States; and the circulation of such association shall not be within the limitation of circulation mentioned in this Title.

Reserve deposit in central reserve city. 103. (SEC. 5195.) Each association organized in any of the cities named in section fifty-one hundred and ninety-one may keep one-half of its lawful-money reserve in cash deposits in the city of New York. But the foregoing provision shall not apply to associations organized and located in the city of San Francisco for the purpose of issuing notes payable in gold. This section shall not relieve any association from its liability to redeem its circulating notes at its own counter at par in lawful money on demand.

Additional reserve cities. 104. Sec. 1 of the act of March 3, 1887, as amended by the act of March 3, 1903, provides that whenever three-fourths in number of the national banks located in any city of the United States having a population of twenty-five thousand people shall make application to the Comptroller of the Currency, in writing, asking that the name of the city in which such banks are located shall be added to the cities named in sections fifty-one hundred and ninety-one and fifty-one hundred and ninety-two of the Revised Statutes, the Comptroller shall have authority to grant such request, and every bank located in such city shall at all times thereafter have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of its deposits, as provided in sections fifty-one hundred and ninety-one and fifty-one hundred and ninety-five of the Revised Statutes.

105. Sec. 2 of the act of March 3, 1887, provides that whenever three-fourths in number of the national banks located in any city of the United States having a population of two hundred thousand people shall make application to the Comptroller of the Currency, in writing, asking that such city may be a central reserve city, like the city of New York, in which one-half of the lawful-money reserve of the national banks located in other reserve cities may be deposited, as provided in section fifty-one hundred and ninety-five of the Revised Statutes, the Comptroller, shall have authority, with the approval of the Secretary of the Treasury, to grant such request, and every bank located in such city shall at all times thereafter have on hand, in lawful money of the United States, twenty-five per centum of its deposits, as provided in section fifty-one hundred and ninety-one of the Revised Statutes. *Additional central reserve cities.*

106. (SEC. 5137.) A national banking association may purchase, hold, and convey real estate for the following purposes, and for no others: *Real estate.*

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it.

But no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years.

107. (SEC. 5197.) Any association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at the rate allowed by the laws of the State, Territory, or District where the bank is located, and no more, except that where by the laws of any State a different rate is limited for banks of issue organized under State *Interest.*

laws, the rate so limited shall be allowed for associations organized or existing in any such State under this Title. When no rate is fixed by the laws of the State, or Territory, or District, the bank may take, receive, reserve, or charge a rate not exceeding seven per centum, and such interest may be taken in advance, reckoning the days from which the note, bill, or other evidence of debt has to run. And the purchase, discount, or sale of a bona fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

*Penalty for
unlawful interest.*

108. (SEC. 5198.) The taking, receiving, reserving, or charging a rate of interest greater than is allowed by the preceding section, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same, provided such action is commenced within two years from the time the usurious transaction occurred.

*Surplus and
dividends.*

109. (SEC. 5199.) The directors of any association may semi-annually declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall, before the declaration of a dividend, carry one-tenth part of its net profits of the preceding half year to its surplus fund until the same shall amount to twenty per centum of its capital stock.

*Restriction on
loans.*

110. (SEC. 5200, as amended June 22, 1906.) The total liabilities to any association, of any person, or of any company, corporation, or firm for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one-tenth part of the amount of the capital stock of such association, actually paid in and unimpaired and one-tenth part of its unimpaired surplus fund: *Provided, however,* That the total of such liabilities shall in no event exceed thirty per centum

of the capital stock of the association. But the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as money borrowed.

111. (SEC. 5201.) No association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall within six months from the time of its purchase, be sold or disposed of at public or private sale; or, in default thereof, a receiver may be appointed to close up the business of the association, according to section fifty-two hundred and thirty-four.

Associations must not hold their own stock.

112. (SEC. 5202.) No association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on account of demands of the nature following:

Restriction on banks' liability.

First. Notes of circulation.

Second. Moneys deposited with or collected by the association.

Third. Bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto.

Fourth. Liabilities to the stockholders of the association for dividends and reserve profits.

113. (SEC. 5203.) No association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise; nor shall any association use its circulating notes, or any part thereof, in any manner or form, to create or increase its capital stock.

Improper use of bank circulation.

114. (SEC. 5204.) No association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any

Unearned dividends prohibited.

time been sustained by any such association equal to or exceeding in undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it continues its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. All debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same are well secured, and in process of collection, shall be considered bad debts within the meaning of this section. But nothing in this section shall prevent the reduction of the capital stock of the association under section fifty-one hundred and forty-three.

*Assessment for
impairment of
capital.*

115. (SEC. 5205.) Every association which shall have failed to pay up its capital stock, as required by law, and every association whose capital stock shall have become impaired by losses or otherwise, shall, within three months after receiving notice thereof from the Comptroller of the Currency, pay the deficiency in the capital stock, by assessment upon the shareholders pro rata for the amount of capital stock held by each; and the Treasurer of the United States shall withhold the interest upon all bonds held by him in trust for any such association, upon notification from the Comptroller of the Currency, until otherwise notified by him. If any such association shall fail to pay up its capital stock, and shall refuse to go into liquidation, as provided by law, for three months after receiving notice from the Comptroller, a receiver may be appointed to close up the business of the association, according to the provisions of section fifty-two hundred and thirty-four.

*Provision for
enforcement of
assessment.*

116. Sec. 4 of the act of June 30, 1876, provides that if any shareholder or shareholders of a bank shall neglect or refuse, after three months' notice, to pay the assessment, as provided in this section, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such shareholder or shareholders to be sold at public auction (after thirty days' notice shall be given by posting such notice of sale in the office of the bank and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto) to make good the deficiency; and the balance, if any, shall be returned to such delinquent shareholder or shareholders.

117. (SEC. 5206.) No association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, or in any other mode pay or put in circulation the notes of any bank or banking association which are not, at any such time, receivable, at par, on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall any association knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

*Prohibition
against uncurrent
notes.*

118. (SEC. 5210.) The president and cashier of every national banking association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted. Such lists shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under State authority, during business hours of each day in which business may be legally transacted. A copy of such list, on the first Monday of July of each year, verified by the oath of such president or cashier, shall be transmitted to the Comptroller of the Currency.

*List of
shareholders.*

119. (SEC. 5211.) Every association shall make to the Comptroller of the Currency not less than five reports during each year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association, and attested by the signature of at least three of the directors. Each such report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the association at the close of business on any past day by him specified, and shall be transmitted to the Comptroller within five days after the receipt of a request or requisition therefor from him, and in the same form in which it is made to the Comptroller shall be published in a newspaper published in the place where such association is established, or if there is no newspaper in the place, then in one published nearest thereto in the same county, at the expense of the association; and such proof of publication shall be furnished as may be required by the Comptroller. The Comptroller shall also have power to

*Reports of
condition.*

call for special reports from any particular association whenever in his judgment the same are necessary in order to a full and complete knowledge of its condition.

*Verification of
such reports.*

120. The act of February 26, 1881, provides that the oath or affirmation required by section fifty-two hundred and eleven of the Revised Statutes, verifying the returns made by national banks to the Comptroller of the Currency, when taken before a notary public properly authorized and commissioned by the State in which such notary resides and the bank is located, or any other officer having an official seal, authorized in such State to administer oaths, shall be a sufficient verification as contemplated by said section fifty-two hundred and eleven: *Provided*, That the officer administering the oath is not an officer of the bank.

*Reports of
dividends and
earnings.*

121. (SEC. 5212.) In addition to the reports required by the preceding section, each association shall report to the Comptroller of the Currency, within ten days after declaring any dividend, the amount of such dividend and the amount of net earnings in excess of such dividend. Such reports shall be attested by the oath of the president or cashier of the association.

*Penalty for
failure to report.*

122. (SEC. 5213.) Every association which fails to make and transmit any report required under either of the two preceding sections shall be subject to a penalty of one hundred dollars for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report. Whenever any association delays or refuses to pay the penalty herein imposed, after it has been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States.

*Reports of
other banks.*

123. Sec. 6 of the act of June 30, 1876, as amended by acts of March 3, 1901, and June 30, 1902, provides that all banks or savings companies or institutions organized under authority of any act of Congress to do business in the District of Columbia

shall be, and are hereby, required to make to the Comptroller of the Currency, and publish, all the reports which national banking associations are required to make and publish, under the provisions of sections fifty-two hundred and eleven, fifty-two hundred and twelve, and fifty-two hundred and thirteen of the Revised Statutes, and shall be subject to the same penalties for failure to make or publish such reports as are therein provided, which penalties may be collected by suit before the supreme court of the District of Columbia.

124. (SEC. 5219.) Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the association is located; but the legislature of each State may determine and direct the manner and place of taxing all the shares of national banking associations located within the State, subject only to the two restrictions, that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State, and that the shares of any national banking association owned by nonresidents of any State shall be taxed in the city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt the real property of associations from either State, county, or municipal taxes, to the same extent, according to its value, as other real property is taxed.

State taxation of national banks.

125. (SEC. 5240.) The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall, as often as shall be deemed necessary or proper, appoint a suitable person or persons to make an examination of the affairs of every banking association, who shall have power to make a thorough examination into all the affairs of the association, and in doing so to examine any of the officers and agents thereof on oath; and shall make a full and detailed report of the condition of the association to the Comptroller.

National-bank examiners.

126. (SEC. 5240.) But no person shall be appointed to examine the affairs of any banking association of which he is a director or other officer.

Qualification for examiner.

Compensation of examiners. 127. (SEC. 5240.) All persons appointed to be examiners of national banks not located in the redemption cities specified in section five thousand one hundred and ninety-two of the Revised Statutes of the United States, or in any one of the States of Oregon, California, and Nevada, or in the Territories, shall receive compensation for such examination as follows: For examining national banks having a capital less than one hundred thousand dollars, twenty dollars; those having a capital of one hundred thousand dollars and less than three hundred thousand dollars, twenty-five dollars; those having a capital of three hundred thousand dollars and less than four hundred thousand dollars, thirty-five dollars; those having a capital of four hundred thousand dollars and less than five hundred thousand dollars, forty dollars; those having a capital of five hundred thousand dollars and less than six hundred thousand dollars, fifty dollars; those having a capital of six hundred thousand dollars and over, seventy-five dollars; which amounts shall be assessed by the Comptroller of the Currency upon, and paid by, the respective association so examined, and shall be in lieu of the compensation and mileage heretofore allowed for making said examinations; and persons appointed to make examinations of national banks in the cities named in section five thousand one hundred and ninety-two of the Revised Statutes of the United States, or in any one of the States of Oregon, California, and Nevada, or in the Territories, shall receive such compensation as may be fixed by the Secretary of the Treasury upon the recommendation of the Comptroller of the Currency; and the same shall be assessed and paid in the manner hereinbefore provided.

Examinations in District of Columbia. 128. (SEC. 332.) The Comptroller of the Currency, in addition to the powers conferred upon him by law for the examination of national banks, is further authorized, whenever he may deem it useful, to cause examination to be made into the condition of any bank in the District of Columbia organized under act of Congress. The Comptroller, at his discretion, may report to Congress the results of such examination. The expense necessarily incurred in any such examination shall be paid out of any appropriation made by Congress for special bank examinations.

129. (SEC. 5241.) No association shall be subject to any *Limitation of* visitorial powers other than such as are authorized by this Title, *visitorial powers.* or are vested in the courts of justice.

130. (SEC. 5243.) All banks not organized and transacting *Use of* business under the national currency laws, or under this Title, and all *"National" in* persons or corporations doing the business of bankers, brokers, or *titles.* savings institutions, except savings banks authorized by Congress to use the word "national" as a part of their corporate name, are prohibited from using the word "national" as a portion of the name or title of such bank, corporation, firm, or partnership; and any violation of this prohibition committed after the third day of September, eighteen hundred and seventy-three, shall subject the party chargeable therewith to a penalty of fifty dollars for each day during which it is permitted or repeated.

CHAPTER SIX.

EXTENSION OF CORPORATE EXISTENCE.

131. The act of July 12, 1882, provides: (SEC. 1) That any *Corporate* national banking association organized under the acts of February *existence may be* twenty-fifth, eighteen hundred and sixty-three, June third, eighteen *extended.* hundred and sixty-four, and February fourteenth, eighteen hundred and eighty, or under sections fifty-one hundred and thirty-three, fifty-one hundred and thirty-four, fifty-one hundred and thirty-five, fifty-one hundred and thirty-six, and fifty-one hundred and fifty-four of the Revised Statutes of the United States, may, at any time within the two years next previous to the date of the expiration of its corporate existence under present law, and with the approval of the Comptroller of the Currency, to be granted as hereinafter provided, extend its period of succession by amending its articles of association for a term of not more than twenty years from the expiration of the period of succession named in said articles of association, and shall have succession for such extended period, unless sooner dissolved by the act of shareholders owning two thirds of its stock, or unless its franchise becomes forfeited by some violation of law, or unless hereafter modified or repealed.

*Consent of
two-thirds
necessary.*

132 (SEC. 2.) That such amendment of said articles of association shall be authorized by the consent in writing of shareholders owning not less than two-thirds of the capital stock of the association; and the board of directors shall cause such consent to be certified under the seal of the association, by its president or cashier, to the Comptroller of the Currency, accompanied by an application made by the president or cashier for the approval of the amended articles of association by the Comptroller; and such amended articles of association shall not be valid until the Comptroller shall give to such association a certificate under his hand and seal that the association has complied with all the provisions required to be complied with and is authorized to have succession for the extended period named in the amended articles of association.

*Special
examination
of bank.*

133. (SEC. 3.) That upon the receipt of the application and certificate of the association provided for in the preceding section, the Comptroller of the Currency shall cause a special examination to be made, at the expense of the association, to determine its condition; and if after such examination or otherwise it appears to him that said association is in a satisfactory condition, he shall grant his certificate of approval provided for in the preceding section, or if it appears that the condition of said association is not satisfactory, he shall withhold such certificate of approval.

*Status not
changed by
extension.*

134. (SEC. 4.) That any association so extending the period of its succession shall continue to enjoy all the rights and privileges and immunities granted and shall continue to be subject to all the duties, liabilities, and restrictions imposed by the Revised Statutes of the United States and other acts having reference to national banking associations, and it shall continue to be in all respects the identical association it was before the extension of its period of succession.

*Dissenting
shareholders
may withdraw.*

135. (SEC. 5.) That when any national banking association has amended its articles of association as provided in this act, and the Comptroller has granted his certificate of approval, any shareholder not assenting to such amendment may give notice in writing to the directors, within thirty days from the date of the certificate of approval, of his desire to withdraw from said association, in

which case he shall be entitled to receive from said banking association the value of the shares so held by him, to be ascertained by an appraisal made by a committee of three persons, one to be selected by such shareholder, one by the directors, and the third by the first two; and in case the value so fixed shall not be satisfactory to any such shareholder, he may appeal to the Comptroller of the Currency, who shall cause a reappraisal to be made, which shall be final and binding; and if said reappraisal shall exceed the value fixed by said committee, the bank shall pay the expenses of said reappraisal, and otherwise the appellant shall pay said expenses; and the value so ascertained and determined shall be deemed to be a debt due, and be forthwith paid, to said shareholder, from said bank; and the shares so surrendered and appraised shall, after due notice, be sold at public sale, within thirty days after the final appraisal provided in this section: *Provided*, that in the organization of any banking association intended to replace any existing banking association, and retaining the name thereof, the holders of stock in the expiring association shall be entitled to preference in the allotment of the shares of the new association in proportion to the number of shares held by them respectively in the expiring association.

136. The act of Congress, approved April 12, 1902, provides that the Comptroller of the Currency is hereby authorized in the manner provided by, and under the conditions and limitations of the act of July 12, 1882, to extend for a further period of twenty years the charter of any national banking association extended under said act which shall desire to continue its existence after the expiration of its charter. *Re-extension of corporate existence.*

CHAPTER SEVEN.

LIQUIDATION AND RECEIVERSHIP.

137. (SEC. 5220.) Any association may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock. *Two-thirds vote required for liquidation.*

Notice of voluntary liquidation. 138. (SEC. 5221.) Whenever a vote is taken to go into liquidation it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the association, by its president or cashier, to the Comptroller of the Currency, and the publication thereof to be made for a period of two months in a newspaper published in the city of New York, and also in a newspaper published in the city or town in which the association is located, or if no newspaper is there published, then in the newspaper published nearest thereto, that the association is closing up its affairs, and notifying the holders of its notes and other creditors to present the notes and other claims against the association for payment.

Deposit of lawful money. 139. (SEC. 5222.) Within six months from the date of the vote to go into liquidation the association shall deposit with the Treasurer of the United States lawful money of the United States sufficient to redeem all its outstanding circulation. The Treasurer shall execute duplicate receipts for money thus deposited, and deliver one to the association and the other to the Comptroller of the Currency, stating the amount received by him, and the purpose for which it has been received; and the money shall be paid into the Treasury of the United States, and placed to the credit of such association upon redemption account.

No deposit required for consolidation. 140. (SEC. 5223.) An association which is in good faith winding up its business for the purpose of consolidating with another association shall not be required to deposit lawful money for its outstanding circulation; but its assets and liabilities shall be reported by the association with which it is in process of consolidation.

Bonds of liquidating banks. 141. (SEC. 5224.) Whenever a sufficient deposit of lawful money to redeem the outstanding circulation of an association proposing to close its business has been made, the bonds deposited by the association to secure payment of its notes shall be reassigned to it, in the manner prescribed by section fifty-one hundred and sixty-two. And thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and

those notes shall be redeemed at the Treasury of the United States. And if any such bank shall fail to make the deposit and take up its bonds for thirty days after the expiration of the time specified, the Comptroller of the Currency shall have power to sell the bonds pledged for the circulation of said bank at public auction in New York City, and, after providing for the redemption and cancellation of said circulation, and the necessary expenses of the sale, to pay over any balance remaining to the bank or its legal representatives.

142. Sec. 7 of the act of July 12, 1882, provides that national banking associations whose corporate existence has expired or shall hereafter expire, and which do not avail themselves of the provisions of this act, shall be required to comply with the provisions of sections fifty-two hundred and twenty-one and fifty-two hundred and twenty-two of the Revised Statutes in the same manner as if the shareholders had voted to go into liquidation, as provided in section fifty-two hundred and twenty of the Revised Statutes; and the provisions of sections fifty-two hundred and twenty-four and fifty-two hundred and twenty-five of the Revised Statutes shall also be applicable to such associations, except as modified by this act; and the franchise of such associations is hereby extended for the sole purpose of liquidating their affairs until such affairs are finally closed. *Banks whose existence has expired.*

143. (SEC. 5226.) Whenever any national banking association fails to redeem in the lawful money of the United States any of its circulating notes, upon demand of payment duly made during the usual hours of business, at the office of such association, the holder may cause the same to be protested, in one package by a notary public, unless the president or cashier of the association whose notes are presented for payment offers to waive demand and notice of the protest, and, in pursuance of such offer, makes, signs, and delivers to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the nonpayment thereof. The notary public, on making such protest, or upon receiving such admission, shall *Protest of bank circulation.*

forthwith forward such admission or notice of protest to the Comptroller of the Currency, retaining a copy thereof. If, however, satisfactory proof is produced to the notary public that the payment of the notes demanded is restrained by order of any court of competent jurisdiction, he shall not protest the same. When the holder of any notes causes more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

Bonds forfeited if circulation is dishonored. 144. (SEC. 5227.) On receiving notice that any national banking association has failed to redeem any of its circulating notes, as specified in the preceding section, the Comptroller of the Currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent, of whose appointment immediate notice shall be given to such association, who shall immediately proceed to ascertain whether it has refused to pay its circulating notes in the lawful money of the United States, when demanded, and shall report to the Comptroller the fact so ascertained. If from such protest, and the report so made, the Comptroller is satisfied that such association has refused to pay its circulating notes and is in default, he shall, within thirty days after he has received notice of such failure, declare the bonds deposited by such association forfeited to the United States, and they shall thereupon be so forfeited.

Bank may enjoin further proceedings. 145. (SEC. 5237.) Whenever an association against which proceedings have been instituted, on account of any alleged refusal to redeem its circulating notes as aforesaid, denies having failed to do so, it may, at any time within ten days after it has been notified of the appointment of an agent, as provided in section fifty-two hundred and twenty-seven, apply to the nearest circuit, or district, or Territorial court of the United States to enjoin further proceedings in the premises; and such court, after citing the Comptroller of the Currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of the jury that such association has not refused to redeem its

circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the Comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

146. (SEC. 736.) All proceedings by any national banking association to enjoin the Comptroller of the Currency, under the provisions of any law relating to national banking associations, shall be had in the district where such association is located. *Where proceedings must be brought.*

147. (SEC. 5228.) After a default on the part of an association to pay any of its circulating notes has been ascertained by the Comptroller, and notice thereof has been given by him to the association, it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits. *Suspension of business after default.*

148. (SEC. 5229.) Immediately upon declaring the bonds of an association forfeited for nonpayment of its notes, the Comptroller shall give notice, in such manner as the Secretary of the Treasury shall, by general rules or otherwise direct, to the holders of the circulating notes of such association, to present them for payment at the Treasury of the United States; and the same shall be paid as presented in lawful money of the United States; whereupon the Comptroller may, in his discretion, cancel an amount of bonds pledged by such association equal at current market rates, not exceeding par, to the notes paid. *Notice to present circulation for redemption.*

149. (SEC. 5230.) Whenever the Comptroller has become satisfied, by the protest or the waiver and admission specified in section fifty-two hundred and twenty-six, or by the report provided for in section fifty-two hundred and twenty-seven, that any association has refused to pay its circulating notes, he may, instead of canceling its bonds, cause so much of them as may be necessary to redeem its outstanding notes to be sold at public auction. *Bonds sold at public auction.*

in the city of New York, after giving thirty days' notice of such sale to the association.

*First lien for
redeeming
circulation.*

150. (SEC. 5230.) For any deficiency in the proceeds of all the bonds of an association, when thus sold, to reimburse to the United States the amount expended in paying the circulating notes of the association, the United States shall have a paramount lien upon all its assets; and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

*Bonds sold at
private sale.*

151. (SEC. 5231.) The Comptroller may, if he deems it for the interest of the United States, sell at private sale any of the bonds of an association shown to have made default in paying its notes, and receive therefor either money or the circulating notes of the association. But no such bonds shall be sold by private sale for less than par, nor for less than the market value thereof at the time of sale; and no sales of any such bonds, either public or private, shall be complete until the transfer of the bonds shall have been made with the formalities prescribed by sections fifty-one hundred and sixty-two, fifty-one hundred and sixty-three, and fifty-one hundred and sixty-four.

*Appointment
and duties of
receiver.*

152. (SEC. 5234.) On becoming satisfied, as specified in sections fifty-two hundred and twenty-six and fifty-two hundred and twenty-seven, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he deems proper. Such receiver, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court shall direct; and may, if necessary to pay the debts of such association, enforce the individual liability of the stockholders. Such receiver shall pay over all money so made to the Treasurer of

the United States, subject to the order of the Comptroller, and also make report to the Comptroller of all his acts and proceedings.

153. Sec. 1 of the act of June 30, 1876, provides that whenever any national banking association shall be dissolved, and its rights, privileges, and franchises declared forfeited, as prescribed in section fifty-two hundred and thirty-nine of the Revised Statutes of the United States, or whenever any creditor of any national banking association shall have obtained a judgment against it in any court of record, and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied of the insolvency of the national banking association, he may, after due examination of its affairs, in either case, appoint a receiver, who shall proceed to close up such association, and enforce the personal liability of the shareholders, as provided in section fifty-two hundred and thirty-four of said statute.

*When receiver
may be
appointed.*

A receiver may also be appointed, under the provisions of section fifty-two hundred and thirty-four of the Revised Statutes of the United States, for the following violations of law:

Where the capital stock of a national bank has not been fully paid in and it is thus reduced below the legal minimum and remains so for thirty days. (Sec. 5141, R. S.)

For failure to make good the lawful-money reserve within thirty days after notice. (Sec. 5191, R. S.)

Where a bank purchases or acquires its own stock, to prevent loss upon a debt previously contracted in good faith, and the same is not sold or disposed of within six months from the time of its purchase. (Sec. 5201, R. S.)

For failure to make good any impairment in its capital stock and refusing to go into liquidation within three months after receiving notice. (Sec. 5205, R. S.)

For false certification of checks by any officer, clerk, or agent. (Sec. 5208, R. S.)

154. (SEC. 5235.) The Comptroller shall, upon appointing a receiver, cause notice to be given, by advertisement in such

*Notice to
creditors of
insolvent banks.*

newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same and to make legal proof thereof.

Distribution of assets of insolvent banks. 155. (SEC. 5236.) From time to time, after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association, the Comptroller shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and, as the proceeds of the assets of such association are paid over to him, shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held.

Expenses of receivership—how paid. 156. (SEC. 5238.) All fees for protesting the notes issued by any national banking association shall be paid by the person procuring the protest to be made, and such association shall be liable therefor; but no part of the bonds deposited by such association shall be applied to the payment of such fees. All expenses of any preliminary or other examinations into the condition of any association shall be paid by such association. All expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

Forfeiture of charter. 157. (SEC. 5239.) If the directors of any national banking association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate, any of the provisions of this Title, all the rights, privileges, and franchises of the association shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper circuit, district, or Territorial court of the United States, in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved.

Individual liability of directors. 158. (SEC. 5239.) And in case of such violation every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages

which the association, its shareholders, or any other person shall have sustained in consequence of such violation.

159. The act of March 29, 1886, provides: (SEC. 1.) That whenever the receiver of any national bank duly appointed by the Comptroller of the Currency, and who shall have duly qualified and entered upon the discharge of his trust, shall find it in his opinion necessary, in order to fully protect and benefit his said trust, to the extent of any and all equities that such trust may have in any property, real or personal, by reason of any bond, mortgage, assignment, or other proper legal claim attaching thereto, and which said property is to be sold under any execution, decree of foreclosure, or proper order of any court of jurisdiction, he may certify the facts in the case, together with his opinion as to the value of the property to be sold and the value of the equity his said trust may have in the same, to the Comptroller of the Currency, together with a request for the right and authority to use and employ so much of the money of said trust as may be necessary to purchase such property at such sale.

*Receiver may
purchase property
to protect his
trust.*

SEC. 2. That such request, if approved by the Comptroller of the Currency, shall be, together with the certificate of facts in the case and his recommendation as to the amount of money which in his judgment should be so used and employed, submitted to the Secretary of the Treasury, and if the same shall likewise be approved by him the request shall be by the Comptroller of the Currency allowed, and notice thereof, with copies of the request, certificate of facts, and indorsement of approvals, shall be filed with the Treasurer of the United States.

SEC. 3. That whenever any such request shall be allowed as hereinbefore provided, the said Comptroller of the Currency shall be, and is, empowered to draw upon and from such funds of any such trust as may be deposited with the Treasurer of the United States for the benefit of the bank in interest to the amount as may be recommended and allowed and for the purpose for which such allowance was made: *Provided, however,* That all payments to be made for or on account of the purchase of any such property and under any such allowance shall be made by the Comptroller of the

Currency direct, with the approval of the Secretary of the Treasury, for such purpose only and in such manner as he may determine and order.

*Taxes on
insolvent
national banks
remitted.*

160. The act of March 1, 1879, provides that whenever and after any bank has ceased to do business by reason of insolvency or bankruptcy no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Commissioner of Internal Revenue, when the facts shall so appear to him, is authorized to remit so much of said tax against insolvent State and savings banks as shall be found to affect the claims of their depositors.

*Appointment
and qualification
of shareholders'
agent.*

161. Sec. 3 of the act of June 30, 1876, as amended by acts of August 3, 1892, and March 2, 1897, provides that whenever any association shall have been or shall be placed in the hands of a receiver, as provided in section fifty-two hundred and thirty-four and other sections of the Revised Statutes of the United States, and when, as provided in section fifty-two hundred and thirty-six thereof, the Comptroller of the Currency shall have paid to each and every creditor of such association, not including shareholders who are creditors of such association, whose claim or claims as such creditors shall have been proved or allowed as therein prescribed, the full amount of such claims, and all expenses of the receivership and the redemption of the circulating notes of such association shall have been provided for by depositing lawful money of the United States with the Treasurer of the United States, the Comptroller of the Currency shall call a meeting of the shareholders of such association by giving notice thereof for thirty days in a newspaper published in the town, city, or county where the business of such association was carried on, or if no newspaper is there published, in the newspaper published nearest thereto. At such meeting the shareholders shall determine whether the receiver shall be continued and shall wind up the affairs of such association, or whether an agent shall be elected for that purpose, and in so determining the said shareholders shall vote by ballot, in person

or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock in value and number of shares shall be necessary to determine whether the said receiver shall be continued, or whether an agent shall be elected. In case such majority shall determine that the said receiver shall be continued, the said receiver shall thereupon proceed with the execution of his trust, and shall sell, dispose of, or otherwise collect the assets of the said association, and shall possess all the powers and authority, and be subject to all the duties and liabilities originally conferred or imposed upon him by his appointment as such receiver, so far as the same remain applicable. In case the said meeting shall, by the vote of a majority of the stock in value and number of shares, determine that an agent shall be elected, the said meeting shall thereupon proceed to elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the person who shall receive votes representing at least a majority of stock in value and number shall be declared the agent for the purposes hereinafter provided; and whenever any of the shareholders of the association shall, after the election of such agent, have executed and filed a bond to the satisfaction of the Comptroller of the Currency, conditioned for the payment and discharge in full of each and every claim that may hereafter be proved and allowed by and before a competent court, and for the faithful performance of all and singular the duties of such trust, the Comptroller and the receiver shall thereupon transfer and deliver to such agent all the undivided or uncollected or other assets of such association then remaining in the hands or subject to the order and control of said Comptroller and said receiver, or either of them; and for this purpose said Comptroller and said receiver are hereby severally empowered and directed to execute any deed, assignment, transfer, or other instrument in writing that may be necessary and proper; and upon the execution and delivery of such instrument to the said agent the said Comptroller and the said receiver shall by virtue of this act be discharged from any and all liabilities to such association and to each and all the creditors and shareholders thereof.

Duties of shareholders' agent. 162. Sec. 3 of the act of June 30, 1876, as amended by acts of August 3, 1892, and March 2, 1897, provides: Upon receiving such deed, assignment, transfer, or other instrument, the person elected such agent shall hold, control, and dispose of the assets and property of such association which he may receive under the terms hereof for the benefit of the shareholders of such association, and he may, in his own name, or in the name of such association, sue and be sued and do all other lawful acts and things necessary to finally settle and distribute the assets and property in his hands, and may sell, compromise, or compound the debts due to such association, with the consent and approval of the circuit or district court of the United States for the district where the business of such association was carried on, and shall at the conclusion of his trust render to such district or circuit court a full account of all his proceedings, receipts, and expenditures as such agent, which court shall, upon due notice, settle and adjust such accounts and discharge said agent and the sureties upon said bond. And in case any such agent so elected shall refuse to serve, or die, resign, or be removed, any shareholder may call a meeting of the shareholders of such association in the town, city, or village where the business of the said association was carried on, by giving notice thereof for thirty days in a newspaper published in said town, city, or village, or if no newspaper is there published, in the newspaper published nearest thereto, at which meeting the shareholders shall elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and when such agent shall have received votes representing at least a majority of the stock in value and number of shares, and shall have executed a bond to the shareholders conditioned for the faithful performance of his duties, in the penalty fixed by the shareholders at said meeting, with two sureties, to be approved by a judge of a court of record, and file said bond in the office of the clerk of a court of record in the county where the business of said association was carried on, he shall have all the rights, powers, and duties of the agent first elected as hereinbefore provided. At any meeting held as hereinbefore provided administrators or executors of deceased shareholders may act and sign as the decedent might have done if living, and guardians of minors and trustees

of other persons may so act and sign for their ward or wards or cestui que trust. The proceeds of the assets or property of any such association which may be undistributed at the time of such meeting or may be subsequently received shall be distributed as follows:

“First. To pay the expenses of the execution of the trust to the date of such payment.

“Second. To repay any amount or amounts which have been paid in by any shareholder or shareholders of such association upon and by reason of any and all assessments made upon the stock of such association by the order of the Comptroller of the Currency in accordance with the provisions of the statutes of the United States; and

“Third. The balance ratably among such stockholders, in proportion to the number of shares held and owned by each. Such distribution shall be made from time to time as the proceeds shall be received and as shall be deemed advisable by the said Comptroller or said agent.”

163. (SEC. 5242.) All transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any national banking association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by this chapter, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void. No attachment, injunction, or execution shall be issued against such association or its property before final judgment in any suit, action, or proceeding in any State, county, or municipal court.

*Illegal preference
of creditors.*

164. Sec. 2 of the act of June 30, 1876, provides that when any national banking association shall have gone into liquidation under the provisions of section five thousand two hundred and

*Creditor's bill
against
shareholders.*

twenty of said statutes, the individual liability of the shareholders provided for by section fifty-one hundred and fifty-one of said statutes may be enforced by any creditor of such association, by bill in equity in the nature of a creditor's bill, brought by such creditor on behalf of himself and of all other creditors of the association, against the shareholders thereof, in any court of the United States, having original jurisdiction in equity for the district in which such association may have been located or established.

CHAPTER EIGHT.

CRIMES, JURISDICTION, ETC.

*Penalty for
improper
countersigning
or delivering
circulation.*

165. (SEC. 5187.) No officer acting under the provisions of this Title shall countersign or deliver to any association, or to any other company or person, any circulating notes contemplated by this Title, except in accordance with the true intent and meaning of its provisions. Every officer who violates this section shall be deemed guilty of a high misdemeanor, and shall be fined not more than double the amount so countersigned and delivered, and imprisoned not less than one year and not more than fifteen years.

*Penalty for
pledging United
States notes or
bank circulation.*

166. (SEC. 5207.) No association shall hereafter offer or receive United States notes or national-bank notes as security or as collateral security for any loan of money, or for a consideration agree to withhold the same from use, or offer or receive the custody or promise of custody of such notes as security, or as collateral security, or consideration for any loan of money. Any association offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be fined not more than one thousand dollars and a further sum equal to one-third of the money so loaned. The officer or officers of any association who shall make any such loan shall be liable for a further sum equal to one-quarter of the money loaned; and any fine or penalty incurred by a violation of this section shall be recoverable for the benefit of the party bringing such suit. Sec. 12 of the act of July 12,

1882, provides that the provisions of this section shall apply to the United States certificates of gold and silver coin.

167. (SEC. 5188). It shall not be lawful to design, engrave, *Penalty for imitating bank circulation for advertising purposes.* print, or in any manner make or execute, or to utter, issue, distribute, circulate, or use any business or professional card, notice, placard, circular, handbill, or advertisement in the likeness or similitude of any circulating note or other obligation or security of any banking association organized or acting under the laws of the United States which has been or may be issued under this Title, or any act of Congress, or to write, print, or otherwise impress upon any such note, obligation, or security any business or professional card, notice, or advertisement, or any notice or advertisement of any matter or thing whatever. Every person who violates this section shall be liable to a penalty of one hundred dollars, recoverable one-half to the use of the informer.

168. (SEC. 5189.) Every person who mutilates, cuts, defaces, *Penalty for mutilating circulation.* disfigures, or perforates with holes, or unites or cements together, or does any other thing to any bank bill, draft, note, or other evidence of debt, issued by any national banking association, or who causes or procures the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued by said association, shall be liable to a penalty of fifty dollars, recoverable by the association.

169. (SEC. 5415.) Every person who falsely makes, forges, *Penalty for counterfeiting circulation.* or counterfeits, or causes or procures to be made, forged, or counterfeited, or willingly aids or assists in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be in imitation of, the circulating notes issued by any banking association now or hereafter authorized and acting under the laws of the United States; or who passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited note purporting to be issued by any such association doing a banking business, knowing the same to be falsely made, forged, or counterfeited, or who falsely alters, or causes, or procures to be falsely altered, or willingly aids or assists in falsely altering any such

circulating notes, or passes, utters, or publishes, or attempts to pass, utter, or publish as true, any falsely altered or spurious circulating note issue, or purporting to have been issued, by any such banking association, knowing the same to be falsely altered or spurious, shall be imprisoned at hard labor not less than five years nor more than fifteen years, and fined not more than one thousand dollars.

What are obligations of the United States.

170. (SEC. 5413.) The words "obligation or other security of the United States" shall be held to mean all bonds, certificates of indebtedness, national-bank currency, coupons, United States notes, Treasury notes, fractional notes, certificates of deposit, bills, checks, or drafts for money drawn by or upon authorized officers of the United States, stamps and other representatives of value, or whatever denomination, which have been or may [be] issued under any act of Congress.

Penalty for illegal possession or use of material for circulation.

171. (SEC. 5430.) Every person having control, custody, or possession of any plate, or any part thereof, from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purpose of printing, any obligation or other security of the United States, who uses such plate, or knowingly suffers the same to be used for the purpose of printing any such or similar obligation, or other security, or any part thereof, except as may be printed for use of the United States by order of the proper officer thereof; and every person who engraves, or causes or procures to be engraved, or assists in engraving, any plate in the likeness of any plate designed for the printing of such obligation or other security, or who sells any such plate, or who brings into the United States from any foreign place any such plate, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, in either case, than that such plate be used for the printing of the obligations or other securities of the United States; or who has in his control, custody, or possession any metallic plate engraved after the similitude of any plate from which any such obligation or other security has been printed, with intent to use such plate, or suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part thereof; or who has in his possession or custody,

except under authority from the Secretary of the Treasury or other proper officer, any obligation or other security, engraved and printed after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; and every person who prints, photographs, or in any other manner makes or executes, or causes to be printed, photographed, made, or executed, or aids in printing, photographing, making, or executing any engraving, photograph, print, or impression in the likeness of any such obligation or other security, or any part thereof, or who sells any such engraving, photograph, print, or impression, except to the United States, or who brings into the United States from any foreign place any such engraving photograph, print, or impression, except by direction of some proper officer of the United States, or who has or retains in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury or some other proper officer of the United States, shall be punished by a fine of not more than five thousand dollars, or by imprisonment at hard labor not more than fifteen years, or by both.

172. (SEC. 5431.) Every person who, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or brings into the United States with intent to pass, publish, utter, or sell, or keeps in possession or conceals, with like intent, any falsely made, forged, counterfeited, or altered obligation, or other security of the United States, shall be punished by a fine of not more than five thousand dollars and by imprisonment at hard labor not more than fifteen years. *Penalty for passing counterfeit circulation.*

173. (SEC. 5432.) Every person who, without authority from the United States, takes, procures, or makes, upon lead, foil, wax, plaster, paper, or any other substance or material, an impression, stamp, or imprint of, form, or by the use of, any bedplate, bed-piece, die, roll, plate, seal, type, or other tool, implement, instrument, or thing used or fitted, or intended to be used, in printing, *Penalty for taking unauthorized impressions of tools.*

stamping, or impressing, or in making other tools, implements, instruments, or things, to be used, or fitted or intended to be used, in printing, stamping, or impressing any kind or description of obligation or other security of the United States, now authorized or hereafter to be authorized by the United States, or circulating note or evidence of debt of any banking association under the laws thereof, shall be punished by imprisonment at hard labor not more than ten years, or by a fine of not more than five thousand dollars, or both.

*Penalty for
having such
impressions.*

174. (SEC. 5433.) Every person who, with intent to defraud, has in his possession, keeping, custody, or control, without authority from the United States, any imprint, stamp, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument, or thing used, or fitted, or intended to be used for any of the purposes mentioned in the preceding section; or who, with intent to defraud, sells, gives, or delivers any such imprint, stamp, or impression to any other person, shall be punished by imprisonment at hard labor not more than ten years, or by a fine of not more than five thousand dollars.

*Penalty for
dealing in
counterfeit
circulation.*

175. (SEC. 5434.) Every person who buys, sells, exchanges, transfers, receives, or delivers any false, forged, counterfeited, or altered obligation or other security of the United States, or circulating note of any banking association organized or acting under the laws thereof, which has been or may hereafter be issued by virtue of any act of Congress, with the intent that the same be passed, published, or used as true and genuine, shall be imprisoned at hard labor not more than ten years, or fined not more than five thousand dollars, or both.

*Penalty for
issuing
circulation
of expired
associations.*

176. (SEC. 5437.) In all cases where the charter of any corporation which has been or may be created by act of Congress has expired or may hereafter expire, if any director, officer, or agent of the corporation, or any trustee thereof, or any agent of such trustee, or any person having in his possession or under his control the property of the corporation for the purpose of paying or redeeming its notes and obligations, knowingly issues, reissues, or utters as money, or in any other way knowingly puts in circulation any bill, note, check, draft, or other security purporting to have

been made by any such corporation whose charter has expired, or by any officer thereof, or purporting to have been made under authority derived therefrom, or if any person knowingly aids in any such act, he shall be punished by a fine of not more than ten thousand dollars, or by imprisonment not less than one year nor more than five years, or by both such fine and imprisonment. But nothing herein shall be construed to make it unlawful for any person, not being such director, officer, or agent of the corporation, or any trustee thereof, or any agent of such trustee, or any person having in his possession or under his control the property of the corporation for the purpose hereinbefore set forth, who has received or may hereafter receive such bill, note, check, draft, or other security, bona fide and in the ordinary transactions of business, to utter as money and otherwise circulate the same.

177. (SEC. 5208.) It shall be unlawful for any officer, clerk, or agent of any national banking association to certify any check drawn upon the association unless the person or company drawing the check has on deposit with the association, at the time such check is certified, an amount of money equal to the amount specified in such check. Any check so certified by duly authorized officers shall be a good and valid obligation against the association; but the act of any officer, clerk, or agent of any association, in violation of this section, shall subject such bank to the liabilities and proceedings on the part of the Comptroller as provided for in section fifty-two hundred and thirty-four.

*False certification
of checks.*

178. Sec. 13 of the act of July 12, 1882, provides that any officer, clerk, or agent of any national banking association who shall willfully violate the provisions of section fifty-two hundred and eight of the Revised Statutes of the United States, or who shall resort to any device, or receive any fictitious obligations, direct or collateral, in order to evade the provisions thereof, or who shall certify checks before the amount thereof shall have been regularly entered to the credit of the dealer upon the books of the banking association, shall be deemed guilty of a misdemeanor and shall, on conviction thereof in any circuit or district court of the United States, be fined not more than five thousand dollars, or shall be

*Penalty for
false certification
of checks.*

imprisoned not more than five years, or both, in the discretion of the court.

*Penalty for
official
malfeasance.*

179. (SEC. 5209.) Every president, director, cashier, teller, clerk, or agent of any association who embezzles, abstracts, or willfully misapplies any of the moneys, funds, or credits of the association, or who, without authority from the directors, issues or puts in circulation any of the notes of the association; or who, without such authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud the association or any other company, body politic or corporate, or any individual person, or to deceive any officer of the association or any agent appointed to examine the affairs of any such association; and every person who with like intent aids or abets any officer, clerk, or agent in any violation of this section, shall be deemed guilty of a misdemeanor, and shall be imprisoned not less than five years nor more than ten.

*Jurisdiction of
circuit courts
to enjoin
Comptroller.*

180. (SEC. 629.) The circuit courts shall have original jurisdiction of all suits brought by any banking association established in the district for which the court is held, under the provisions of Title "THE NATIONAL BANK," to enjoin the Comptroller of the Currency, or any receiver acting under his direction, as provided by said Title.

*General
jurisdiction of
national-bank
cases.*

181. Sec. 4 of the act of July 12, 1882, provides that the jurisdiction for suits hereafter brought by or against any association established under any law providing for national banking associations, except suits between them and the United States or its officers and agents, shall be the same as, and not other than, the jurisdiction for suits by or against banks not organized under any law of the United States which do or might do banking business where such national banking associations may be doing business when such suits may be begun. And all laws and parts of laws of the United States inconsistent with this proviso be, and the same are hereby, repealed. Sec. 4 of the act of March

3, 1887, provides that all national banking associations established under the laws of the United States shall, for the purpose of all actions by or against them, real, personal, or mixed, and all suits in equity, be deemed citizens of the States in which they are respectively located; and in such cases the circuit and district courts shall not have jurisdiction other than such as they would have in cases between individual citizens of the same State. The provisions of this section shall not be held to affect the jurisdiction of the courts of the United States in cases commenced by the United States or by direction of any officer thereof, of cases for winding up the affairs of any such bank.

182. (SEC. 884.) Every certificate, assignment, and conveyance executed by the Comptroller of the Currency, in pursuance of law, and sealed with his seal of office, shall be received in evidence in all places and courts; and all copies of papers in his office, certified by him and authenticated by the said seal, shall in all cases be evidence equally with the originals. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer. *Sealed certificates of Comptroller are competent evidence.*

183. (SEC. 885.) Copies of the organization certificate of any national banking association, duly certified by the Comptroller of the Currency and authenticated by his seal of office, shall be evidence in all courts and places within the jurisdiction of the United States of the existence of the association and of every matter which could be proved by the production of the original certificate. *Certified copy of organization certificate as evidence.*

184. (SEC. 380.) All suits and proceedings arising out of the provisions of law governing national banking associations, in which the United States or any of its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts under the direction and supervision of the Solicitor of the Treasury. *Suits against United States officers or agents.*

185. Sec. 31 of the Act of May 2, 1890, provides that all laws relating to national banking associations shall have the same force and effect in Indian Territory as elsewhere in the United States. *Indian Territory.*

CHAPTER NINE.

TRUST COMPANIES, ETC., DISTRICT OF COLUMBIA.

Provision for organization. 186. The act of October 1, 1890, sec. 1, provides that corporations may be formed within the District of Columbia for the purposes hereinafter mentioned in the following manner: Any time hereafter any number of natural persons, citizens of the United States, not less than twenty-five, may associate themselves together to form a company for the purpose of carrying on in the District of Columbia any one of the three classes of business herein specified, to wit:

First. A safe deposit, trust, loan, and mortgage business.

Second. A title insurance, loan, and mortgage business.

Third. A security, guaranty, indemnity, loan, and mortgage business: *Provided*, That the capital stock of any of said companies shall not be less than one million of dollars: *Provided further*, That any of said companies may also do a storage business when their capital stock amounts to the sum of not less than one million two hundred thousand dollars.

Organization certificate of company. 187. (SEC. 2.) That such persons shall, under their hands and seals, execute, before some officer in said District competent to take the acknowledgment of deeds, an organization certificate, which shall specifically state—

Title. First. The name of the corporation.

Purposes. Second. The purposes for which it is formed.

Period of existence. Third. The term for which it is to exist, which shall not exceed the term of fifty years, and be subject to alteration, amendment, or repeal by Congress at any time.

Officers. Fourth. The number of its directors, and the names and residences of the officers who for the first year are to manage the affairs of the company.

Capital stock. Fifth. The amount of the capital stock and its subdivision into shares.

188. (SEC. 3.) That this certificate shall be presented to the Commissioners of the District, who shall have power and discretion to grant or to refuse to said persons a charter of incorporation upon the terms set forth in the said certificate and the provisions of this act.

Charter obtained from district commissioners.

189. (SEC. 4.) That previous to the presentation of the said certificate to the said Commissioners notice of the intention to apply for such charter shall be inserted in two newspapers of general circulation printed in the District of Columbia at least four times a week for three weeks, setting forth briefly the name of the proposed company, its character and object, the names of the proposed corporators, and the intention to make application for a charter on a specified day, and the proof of such publication shall be presented with said certificate when presentation thereof is made to said Commissioners.

Notice of intention to apply for charter.

190. (SEC. 5.) That if the charter be granted as aforesaid it, together with the certificate of the Commissioners granting the same indorsed thereon, shall be filed for record in the office of the recorder of deeds for the District of Columbia, and shall be recorded by him. On the filing of the said certificate with the said recorder of deeds as herein provided, approved as aforesaid by the said Commissioners, the persons named therein and their successors shall thereupon and thereby be and become a body corporate and politic, and as such shall be vested with all the powers and charged with all the liabilities conferred upon and imposed by this act upon companies organized under the provisions hereof: *Provided, however,* That no corporation created and organized under the provisions hereof, or availing itself of the provisions hereof as provided in section eleven, shall be authorized to transact the business of a trust company, or any business of a fiduciary character, until it shall have filed with the Comptroller of the Currency a copy of its certificate of organization and character and shall have obtained from him and filed the same for record with the said recorder of deeds a certificate that the capital stock of said company has been paid in and the deposit of securities made with said Comptroller in the manner and to the extent required by this act.

Charter filed with recorder of deeds for the district.

Trust companies 191. (SEC. 6.) That all companies organized hereunder, or
under which shall under the provisions hereof become entitled to transact
Comptroller's the business of a trust company, shall report to the Comptroller of
supervision. the Currency in the manner prescribed by sections fifty-two hundred
and eleven, fifty-two hundred and twelve, and fifty-two hundred
and thirteen, Revised Statutes of the United States, in the case
of national banks, and all acts amendatory thereof or supplementary
thereto, and with similar provisions for compensating examiners,
and shall be subject to like penalties for failure to do so. The
Comptroller shall have and exercise the same visitorial powers
over the affairs of the said corporation as is conferred upon him
by section fifty-two hundred and forty of the Revised Statutes
of the United States in the case of national banks. He shall also
have power, when in his opinion it is necessary, to take possession
of any such company for the reasons and in the manner and to the
same extent as are provided in the laws of the United States
with respect to national banks.

Powers of these 192. (SEC. 7.) That all companies organized under this act
companies. are hereby declared to be corporations possessed of the powers
and functions of corporations generally, and shall have power—

Contracts. First. To make contracts.

Suits. Second. To sue and be sued, implead and be impleaded, in
any court as fully as natural persons.

Seal. Third. To make and use a common seal and alter the same at
pleasure.

Loans. Fourth. To loan money.

Special powers. Fifth. When organized under subdivision one of the first section
of this act to accept and execute trusts of any and every description
which may be committed or transferred to them, and to accept the
office and perform the duties of a receiver, assignee, executor, admin-
istrator, guardian of the estates of minors, with the consent of the
guardian of the person of such minor, and committee of the estates of
lunatics and idiots whenever any trusteeship or any such office or
appointment is committed or transferred to them, with their consent, by
any person, body politic or corporate, or by any court in the District

of Columbia, and all such companies organized under the first subdivision of section one of this act are further authorized to accept deposits of money for the purposes designated herein upon such terms as may be agreed upon from time to time with depositors, and to act as agent for the purpose of issuing or countersigning the bonds or obligations of any corporation, association, municipality, or State, or other public authority, and to receive and manage any sinking fund on any such terms as may be agreed upon, and shall have power to issue its debenture bonds upon deeds of trust or mortgages of real estate to a sum not exceeding the face value of said deeds of trust or mortgages, and which shall not exceed fifty per centum of the fair cash value of the real estate covered by said deeds or mortgages, to be ascertained by the Comptroller of the Currency. But no debenture bonds shall be issued until the securities on which the same are based have been placed in the actual possession of the trustee named in the debenture bonds, who shall hold said securities until all of said bonds are paid; and when organized under the second subdivision of the first section of this act said company is authorized to insure titles to real estate and to transact generally the business mentioned in said subdivision; and when organized under the third subdivision of section one of this act said company is hereby authorized, in addition to the loan and mortgage business therein mentioned, to secure, guaranty, and insure individuals, bodies politic, associations, and corporations against loss by or through trustees, agents, servants, or employees, and to guaranty the faithful performance of contracts and of obligations of whatever kind entered into by or on the part of any person or persons, association, corporation or corporations, and against loss of every kind; *Provided*, That any corporation formed under the provisions of this act when acting as trustee shall be liable to account for the amounts actually earned by the moneys held by it in trust in addition to the principal so held; but such corporation may be allowed a reasonable compensation for services performed in the care of the trust estate.

193. (SEC. 8.) That in all cases in which application shall be made to any court in the District of Columbia, or wherever *Competent to act as trustee, etc.*

it becomes necessary or proper for said court to appoint a trustee, receiver, administrator, guardian of the estate of a minor, or committee of the estate of a lunatic, it shall and may be lawful for said court (but without prejudice to any preference in the order of any such appointments required by existing law) to appoint any such company organized under the first subdivision of section one of this act, with its assent, such trustee, receiver, administrator, committee, or guardian, with the consent of the guardian of the person of such minor: *Provided, however,* That no court or judge who is an owner of or in any manner financially interested in the stock or business of such corporation shall commit by order or decree to any such corporation any trust or fiduciary duty.

*Qualifications of
such trustee, etc.*

194. (SEC. 9.) That whenever any corporation operating under this act shall be appointed such trustee, executor, administrator, receiver, assignee, guardian, or committee as aforesaid, the president, vice-president, secretary, or treasurer of said company shall take the oath of affirmation now required by law to be made by any trustee, executor, receiver, assignee, guardian, or committee.

*Security for
faithful
performance
of trust.*

195. (SEC. 10.) That when any court shall appoint the said company a trustee, receiver, administrator, or such guardian, or committee, or shall order the deposit of money or other valuables with said company, or where any individual or corporation shall appoint any of said companies a trustee, executor, assignee, or such guardian, the capital stock of said company subscribed for or taken, and all property owned by said company, together with the liability of the stockholders and officers as herein provided, shall be taken and considered as the security required by law for the faithful performance of its duties, and shall be absolutely liable in case of any default whatever.

*Privileges
extended to
existing
corporations.*

196. (SEC. 11.) That any safe deposit company, trust company, surety or guaranty company, or title-insurance company now incorporated and operating under the laws of the United States or of the District of Columbia, or any of the States, and now doing business in said District, may avail itself of the provisions of this act on the filing in the office of the recorder of deeds of the District of Columbia, or with the Comptroller of the Currency,

a certificate of its intention to do so, which certificate shall specify which one of the three classes of business set out in section one it will carry on, and shall be verified by the oath of its president to the effect that it has in every respect complied with the requirements of existing law, especially with the provisions of this act; that its capital stock is paid in as provided in section twenty-one of this act and is not impaired, and thereafter such company may exercise all powers and perform all duties authorized by any one of the subdivisions of section one of this act in addition to the powers now lawfully exercised by such company.

197. (SEC. 12.) That any company operating under this act may lease, purchase, hold, and convey real estate, not exceeding in value five hundred thousand dollars, and such in addition as it may acquire in satisfaction of debts due the corporation, under sales, decrees, judgments, and mortgages. But no such association shall hold the possession of any real estate under foreclosure of mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years. *Real estate.*

198. (SEC. 13.) That the charters for incorporations named in this act may be made perpetual, or may be limited in time by their provisions, subject to the approval of Congress. *Period of corporations' existence.*

199. (SEC. 14.) That the capital stock of every such company shall be at least one million dollars, and at least fifty per centum thereof must have been paid in, in cash or by the transfer of assets as hereinafter provided in section twenty-one of this act, before any such company shall be entitled to transact business as a corporation, except with its own members, and before any company organized hereunder shall be entitled to transact the business of a trust company, or to become and act as an administrator, executor, guardian of the estate of a minor, or undertake any other kindred fiduciary duty, it shall deposit, either in money or in bonds, mortgages, deed of trust, or other securities equal in actual value to one-fourth of the capital stock paid in, with the Comptroller of the Currency, to be kept by him upon the trust and for the purposes hereinafter provided; and the said Comptroller may from time to time require an additional deposit from any such *Provisions relating to capital stock.*

company, to be held upon and for the same trust and purposes, not exceeding, however, in value one-half the paid-in capital stock; and the said Comptroller shall not issue to any corporation the certificate heretofore provided for until said deposit with him of securities required by this section. Within one year after the organization of any corporation under the provisions of this act, or after any corporation heretofore existing shall have availed itself of the powers and rights given by this act in the manner herein provided for, its entire capital stock shall have been paid in.

*Enforcement of
subscriptions
to stock.*

200. (SEC. 15.) That the capital stock of every such company shall be divided into shares of one hundred dollars each. It shall be lawful for such company to call for and demand from the stockholders, respectively, all sums of money by them subscribed, at such time and in such proportions as its board of directors shall deem proper, within the time specified in section fourteen, and it may enforce payment by all remedies provided by law; and if any stockholder shall refuse or neglect to pay any installment as required by a resolution of the board of directors, after thirty days' notice of the same, the said board of directors may sell at public auction, to the highest bidder, so many shares of said stock as shall pay said installment, under such general regulations as may be adopted in the by-laws of said company, and the highest bidder shall be taken to be the person who offers to purchase the least number of shares for the assessment due.

*Annual report of
Comptroller.*

201. (SEC. 16.) That every such company shall annually, within twenty days after the first of January of each year, make a report to the Comptroller of the Currency, which shall be published in a newspaper in the District, which shall state the amount of capital and of the proportion actually paid, the amount of debts, and the gross earnings for the year ending December thirty-first then next previous, together with their expenses, which report shall be signed by the president and a majority of the directors or trustees, and shall be verified by the oath of the president, secretary, and at least three of the directors or trustees.

*Tax on gross
earnings.*

202. (SEC. 16.) And said company shall pay to the District of Columbia, in lieu of personal taxes for each next ensuing year,

one and a half per centum of its gross earnings for the preceding year, shown by said verified statement, which amount shall be payable to the collector of taxes at the times and in the manner that other taxes are payable.

203. (SEC. 17.) That if any company fails to comply with the provisions of the preceding section, all the directors or trustees of such company shall be jointly and severally liable for the debts of the company then existing, and for all that shall be contracted before such report shall be made: *Provided*, That in case of failure of the company in any year to comply with the provisions of section sixteen of this act, and any of the directors shall, on or before January fifteenth of such year, file his written request for such compliance with the secretary of the company, the Comptroller of the Currency, and the recorder of deeds of the District of Columbia, such director shall be exempt from the liability prescribed in this section.

*Liability for
failure to report.*

204. (SEC. 18.) That any willful false swearing in regard to any certificate or report or public notice required by the provisions of this act shall be perjury, and shall be punished as such according to the laws of the District of Columbia. And any misappropriation of any of the money of any corporation or company formed under this act, or any money, funds, or property intrusted to it, shall be held to be larceny, and shall be punished as such under the laws of said District.

*Perjury and
larceny.*

205. (SEC. 19.) That the stock of such company shall be deemed personal estate, and shall be transferable only on the books of such company in such manner as shall be prescribed by the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid, and the said stock shall not be taxable, in the hands of individual owners, the tax on the capital stock, gross earnings of the company hereinbefore provided being in lieu of other personal tax. All certificates of the stock of any company organized under this act shall show upon their face the par value of each share and the amount paid thereon.

Transfer of stock.

Liability of stockholders. 206. (SEC. 20.) That all stockholders of every company incorporated under this act, or availing itself of its provisions under section eleven, shall be severally and individually liable to the creditors of such company to an amount equal to and in addition to the amount of stock held by them, respectively, for all debts and contracts made by such company.

Money payment of capital stock required. 207. (SEC. 21.) That nothing but money shall be considered as payment of any part of the capital stock, except that in the case of any company now doing business in the District of Columbia in any of the classes herein provided for, or under any act of Congress or by virtue of the laws of any of the States, and which company has actually received full payment in money of at least fifty per centum of the capital stock required by this act and which company desires to obtain a charter under this act, all the assets or property may be received and considered as money, at a value to be appraised and fixed by the Comptroller of the Currency: *Provided*, That all such assets and property are also transferred to and are thereafter owned by the company organized under this act.

Number and election of directors. 208. (SEC. 22.) That the stock, property, and concerns of such company shall be managed by not less than nine nor more than thirty directors or trustees, who shall, respectively, be stockholders and at least one-half residents and citizens of the District of Columbia, and shall, except the first year, be annually elected by the stockholders at such time and place and after such published notice as shall be determined by the by-laws of the company, and said directors or trustees shall hold until their successors are elected and qualified.

Appointment of officers. 209. (SEC. 23.) That there shall be a president of the company, who shall be a director, also a secretary and a treasurer, all of whom shall be chosen by the directors or trustees: *Provided*, That only one of the above-named officers shall be held by the same person at the same time. Subordinate officers may be appointed by the directors or trustees, and all such officers may be required to give such security for the faithful performance of the duties of their office as the directors or trustees may require.

210. (SEC. 24.) That the directors or trustees shall have power to make such by-laws as they deem proper for the management or disposal of the stock and business affairs of such company, not inconsistent with the provisions of this act, and prescribing the duties of officers and servants that may be employed, for the appointment of all officers, and for carrying on all kinds of business within the objects and purposes of such company.

By-Laws.

211. (SEC. 25.) That if the directors or trustees of any company shall declare or pay any dividend, the payment of which would render it insolvent, or which would create a debt against such company, they shall be jointly and severally liable as guarantors for all of the debts of the company then existing, and for all that shall be thereafter contracted, while they shall, respectively, remain in office.

Directors' liable for payment of unearned dividends.

212. (SEC. 26.) That if any of the directors or trustees shall object to declaring of such dividend or the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objection in writing with the secretary of the company and with the recorder of deeds of the District they shall be exempt from liability prescribed in the preceding section.

Directors' liability may be avoided.

213. (SEC. 27.) That if the liabilities of any company shall at any time exceed the amount of the fair cash value of the assets, the directors or trustees of such company assenting thereto shall be personally and individually liable for such excess to the creditors of the company after the additional liability of the stockholders has been enforced.

Responsibility of directors for excess liabilities.

214. (SEC. 28.) That no person holding stock in such company as executor, administrator, guardian, or trustee shall be personally subject to any liability as stockholder of such company, but the estate and funds in the hands of such executor, administrator, guardian, or trustee shall be liable in like manner and to the same extent as the testator or intestate or the ward or the person interested in such trust fund would have been if he had been living and competent to act and hold the stock in his own name.

Trustee, etc., not liable on stock assessment.

*Increase of
capital.*

215. (SEC. 29.) That any corporation which may be formed under this chapter may increase its capital stock by complying with the provisions of this chapter to any amount which may be deemed sufficient and proper for the purposes of the corporation.

*Certified copy
of incorporation
certificate
competent
evidence.*

216. (SEC. 30.) That a copy of any certificate of incorporation filed in pursuance of this chapter, certified by the recorder of deeds to be a true copy and the whole of such certificate, shall be received in all courts and places as presumptive legal evidence of the facts therein stated.

*No bond or
other security
required of
trust companies.*

217. (SEC. 31.) That no bond or other collateral security, except as hereinafter stated, shall be required from any trust company incorporated under this act for or in respect to any trust, nor when appointed trustee, guardian, receiver, executor, or administrator, with or without the will annexed, committee of the estate of a lunatic or idiot, or other fiduciary appointment; but the capital stock subscribed for or taken, and all property owned by said company and the amount for which said stockholders shall be liable in excess of their stock, shall be taken and considered as the security required by law for the faithful performance of its duties and shall be absolutely liable in case of any default whatever; and in case of the insolvency or dissolution of said company the debts due from the said company as trustee, guardian, receiver, executor, or administrator, committee of the estate of lunatics, idiots, or any other fiduciary appointment, shall have a preference.

*District supreme
court has
jurisdiction of
trust companies.*

218. (SEC. 32.) That the supreme court of the District of Columbia, or any justice thereof, shall have power to make orders respecting such company whenever it shall have been appointed trustee, guardian, receiver, executor, or administrator, with or without the will annexed, committee of the estate of a lunatic, idiot, or any other fiduciary, and require the said company to render all accounts which might lawfully be made or required by any court or any justice thereof if such trustee, guardian, receiver, executor, administrator, with or without the will annexed, committee of the estate of a lunatic or idiot, or fiduciary were a natural person. And said court, or any justice thereof, at any time, on application

of any person interested, may appoint some suitable person to examine into the affairs and standing of such companies, who shall make a full report thereof to the court, and said court, or any justice thereof, may at any time, in its discretion, require of said company a bond with sureties or other securities for the faithful performance of its obligations, and such sureties or other security shall be liable to the same extent and in the same manner as if given or pledged by a natural person.

219. (SEC. 33.) That no corporation or company organized by virtue of the laws of any of the States of this Union and having its principal place of business within the District of Columbia, shall carry on, in the District of Columbia, any of the kinds of business named in this act without strict compliance in all particulars with the provisions of this act for the government of such corporations formed under it, and each one of the officers of the corporation or company so offending shall be punished by fine not exceeding one thousand dollars, or imprisonment in some State's prison not exceeding one year, or by both fine and imprisonment, in the discretion of the court. This section shall not take effect till six months after the approval of this act. *All similar district corporations subject to this act.*

220. (SEC. 34.) That Congress may at any time alter, amend, or repeal this act, but any such amendment or repeal shall not, nor shall the dissolution of any company formed under this act, take away or impair any remedy given against such corporation, its stockholders or officers, for any liability or penalty which shall have been previously incurred: *Provided*, That the courts of the District of Columbia shall not have power to appoint any trustee, trustees, guardians, receivers, or other trustee of a fund or property located outside of the District of Columbia, or belonging to a corporation or person having a legal residence or location outside of said District. *Provisions for amendment.*

CHAPTER TEN.

SAVINGS BANKS, ETC., DISTRICT OF COLUMBIA.

INCORPORATION OF SAVINGS BANKS IN THE
DISTRICT OF COLUMBIA.

"AN ACT TO ESTABLISH A CODE OF LAW FOR THE DISTRICT OF COLUMBIA," APPROVED MARCH THIRD, NINETEEN HUNDRED AND ONE, AS AMENDED BY THE ACTS APPROVED JANUARY THIRTY-FIRST AND JUNE THIRTIETH, NINETEEN HUNDRED AND TWO.

Chapters XVIII. Subchapter IV. Sec. 605.

*Provision for
organization.*

221. "Any three or more persons who desire to form a company for the purpose of carrying on any enterprise or business which may be lawfully conducted by an individual, excepting banks of circulation or discount (corporations to buy, sell, or deal with real property), railroads, and such other enterprise or business as may be otherwise specially provided for in this code, may make, sign, and acknowledge, before some officer competent to take the acknowledgment of deeds, and file in the office of the recorder of deeds a certificate in writing: *Provided*, That nothing herein contained shall be held to authorize the organization of corporations to buy, sell, or deal in real estate, except corporations to transact the business ordinarily carried on by real-estate agents or brokers."

*Report to be
made to
Comptroller.*

222. (SEC. 713.) All savings banks or savings companies or institutions organized under authority of any act of Congress to do business in the District of Columbia shall be, and are hereby, required to make to the Comptroller of the Currency, and publish, all the reports which national banking associations are required to make and publish under the provisions of sections fifty-two hundred and eleven, fifty-two hundred and twelve, and fifty-two hundred and thirteen of the Revised Statutes, and shall be subject to the same penalties for failure to make or publish such reports as are therein provided, which penalties may be collected by suit before

the supreme court of the District of Columbia.—Act of June 30, 1902.

223. (SEC. 714.) The Comptroller of the Currency, in addition to the powers now conferred upon him by law for the examination of national banks, is hereby further authorized, whenever he may deem it useful, to cause examination to be made into the condition of any bank in the District of Columbia organized under act of Congress. The Comptroller, at his discretion, may report to Congress the results of such examination. The expenses necessarily incurred in the execution of this section shall be paid out of any appropriation made by Congress for special bank examinations.

*Comptroller
authorized to
examine.*

An Act to amend sections seven hundred and thirteen and seven hundred and fourteen of "An Act to establish a code of law for the District of Columbia," approved March third, nineteen hundred and one, as amended by the Acts approved January thirty-first and June thirtieth, nineteen hundred and two, and for other purposes.

224. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That sections seven hundred and thirteen and seven hundred and fourteen of an Act entitled "An Act to establish a code of law for the District of Columbia," approved March third, nineteen hundred and one, as amended, by the Acts approved January thirty-first and June thirtieth, nineteen hundred and two, are hereby amended so as, respectively, to read as follows:

*Amendments
to law.*

"SEC. 713. All savings banks, or savings companies, or trust companies, or other banking institutions, organized under authority of any Act of Congress to do business in the District of Columbia, or organized by virtue of the laws of any of the States of this Union, and having an office or banking house located within the District of Columbia where deposits or savings are received, shall be, and are hereby, required to make to the Comptroller of the Currency and to publish all the reports which national banking associations are required to make and publish under the provisions of sections fifty-two hundred and eleven, fifty-two hundred and twelve, and fifty-two hundred and thirteen of the Revised Statutes of the United States, and shall be subject to the same penalties

for failure to make such reports as are therein provided, which penalties may be collected by suit before the supreme court of the District of Columbia. And the Comptroller shall have power, when in his opinion it is necessary, to take possession of any such bank or company, for the reasons and in the manner and to the same extent as are provided in the laws of the United States with respect to national banks: *Provided, however,* That banking institutions having offices or banking houses in foreign countries as well as in the District of Columbia shall only be required to make and publish the reports provided for in this section semi-annually: *And provided further,* That all publications authorized or required by said section fifty-two hundred and eleven of the Revised Statutes, and all other publications authorized or required by existing law to be made in the District of Columbia, shall be printed in two or more daily newspapers of general circulation, published in the City of Washington, one of which shall be a morning newspaper.

“SEC. 714. The Comptroller of the Currency, in addition to the powers now conferred upon him by law for the examination of national banks, is hereby further authorized, whenever he may deem it useful, to cause examination to be made into the condition of any bank mentioned in the preceding section. The expense of such examination shall be paid in the manner provided by section fifty-two hundred and forty of the Revised Statutes of the United States relating to the examination of national banks.”

Approved, June 25, 1906.

CHAPTER ELEVEN.

GOVERNMENT DEPOSITARIES.

*Designation and
duties of public
depositaries.*

225. (SEC. 5153, as amended by the act of March 4, 1907.) All national banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government,

as may be required of them. The Secretary of the Treasury shall require the associations thus designated to give satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government: *Provided*, That the Secretary shall, on or before the first of January of each year, make a public statement of the securities required during that year for such deposits. And every association so designated as receiver or depositary of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid into the Government for internal revenue, or for loans or stocks. *Provided*, That the Secretary of the Treasury shall distribute the deposits herein provided for, as far as practicable, equitably between the different States and sections.

226. (SEC. 3620.) It shall be the duty of every disbursing officer having any public money intrusted to him for disbursement to deposit the same with the Treasurer or some one of the assistant treasurers of the United States, and to draw from the same only as it may be required for payments to be made by him in pursuance of law; and draw from the same only in favor of the persons to whom payment is made, and all transfers from the Treasurer of the United States to a disbursing officer shall be by draft or warrant on the Treasurer or assistant treasurer of the United States. In places, however, where there is no Treasurer or assistant treasurer, the Secretary of the Treasury may, when he deems it essential to the public interest, specially authorize in writing the deposit of such public money in any other public depositary, or, in writing, authorize the same to be kept in any other manner and under such rules and regulations as he may deem most safe and effectual to facilitate the payments to public creditors. *Deposit and withdrawal of public moneys.*

227. (SEC. 3847.) Any postmaster, having public money belonging to the Government, at an office within a county where there are no designated depositaries, treasurers of mints, or Treasurer or assistant treasurers of the United States may deposit the same, at his own risk and in his official capacity, in any national bank in the *Provisions for deposits by certain postmasters.*

town, city, or county where the said postmaster resides; but no authority or permission is or shall be given for the demand or receipt by the postmaster, or any other person, of interest, directly or indirectly, on any deposit made as herein described; and every postmaster who makes any such deposit shall report quarterly to the Postmaster-General the name of the bank where such deposits have been made, and also state the amount which may stand at the time to his credit.

Penalty for misapplication of money-order funds. 228. (SEC. 4046.) Every postmaster, assistant, clerk, or other person employed in or connected with the business or operations of any money-order office who converts to his own use, in any way whatever, or loans, or deposits in any bank, except as authorized by this Title, or exchanges for other funds, any portion of the money-order funds, shall be deemed guilty of embezzlement, and any such person, as well as every other person advising or participating therein, shall, for every such offense, be imprisoned for not less than six months nor more than ten years, and be fined in a sum equal to the amount embezzled; and any failure to pay over or produce any money-order funds intrusted to such person shall be taken to be prima facie evidence of embezzlement; and upon the trial of any indictment against any person for such embezzlement it shall be prima facie evidence of a balance against him to produce a transcript from the money-order account books of the Sixth Auditor. But nothing herein contained shall be construed to prohibit any postmaster depositing, under the direction of the Postmaster-General, in a national bank designated by the Secretary of the Treasury for that purpose, to his own credit as postmaster, any money-order or other funds in his charge, nor prevent his negotiating drafts or other evidences of debt through such bank, or through United States disbursing officer, or otherwise, when instructed or required to do so by the Postmaster-General for the purpose of remitting surplus money-order funds from one post-office to another, to be used in payment of money-orders. Disbursing officers of the United States shall issue, under regulations to be prescribed by the Secretary of the Treasury, duplicates of lost checks drawn by them in favor of any postmaster on account

of money order or other public funds received by them from some other postmaster.

229. (SEC. 5488.) Every disbursing officer of the United States who deposits any public money intrusted to him in any place or in any manner, except as authorized by law, or converts to his own use in any way whatever, or loans with or without interest, or for any purpose not prescribed by law withdraws from the Treasurer or any assistant treasurer, or any authorized depository, or for any purpose not prescribed by law transfers or applies any portion of the public money intrusted to him, is, in every such act, deemed guilty of an embezzlement of the money so deposited, converted, loaned, withdrawn, transferred, or applied; and shall be punished by imprisonment with hard labor for a term not less than one year nor more than ten years, or by a fine of not more than the amount embezzled or less than one thousand dollars, or by both such fine and imprisonment.

Penalty for unauthorized deposit of public money.

230. (SEC. 5497.) Every banker, broker, or other person not an authorized depository of public moneys, who knowingly receives from any disbursing officer, or collector of internal revenue, or other agent of the United States, any public money on deposit, or by way of loan or accommodation, with or without interest, or otherwise than in payment of a debt against the United States, or who uses, transfers, converts, appropriates, or applies any portion of the public money for any purpose not prescribed by law, and every president, cashier, teller, director, or other officer of any bank or banking association, who violates any of the provisions of this section, is guilty of an act of embezzlement of the public money so deposited, loaned, transferred, used, converted, appropriated, or applied, and shall be punished as prescribed in section fifty-four hundred and eighty-eight.

Penalty for unauthorized receipt or use of public money.

CHAPTER TWELVE.

MISCELLANEOUS.

Legal tender and lawful money. 231. The following statement concerning the legal-tender properties of money of the United States is based upon United States Revised Statutes, sections 3585, 3586, 3587, 3588, 3589, and 3590, and the acts amendatory thereof and additional thereto:

Gold coin, standard silver dollars, subsidiary silver, minor coins, United States notes, and Treasury notes of 1890 have the legal-tender quality as follows: Gold coin is legal tender for its nominal value when not below the limit of tolerance in weight; when below that limit it is legal tender in proportion to its weight; standard silver dollars and Treasury notes of 1890 are legal tender for all debts, public and private, except where otherwise expressly stipulated in the contract; subsidiary silver is legal tender to the extent of \$10, minor coins to the extent of 25 cents, and United States notes for all debts, public and private, except duties on imports and interest on the public debt. Gold certificates, silver certificates, and national-bank notes are nonlegal-tender money. Both kinds of certificates, however, are receivable for all public dues, and national-bank notes are receivable for all public dues except duties on imports, and may be paid out for all public dues, except interest on the public debt.

The term "lawful money" is understood to apply to every form of money which is endowed by law with the legal-tender quality. (See Opinions of Attorneys-General, vol. 17, p. 123.)

Currency Act

of March 14, 1900

AN ACT TO DEFINE AND FIX THE STANDARD OF VALUE, TO MAINTAIN THE PARITY OF ALL FORMS OF MONEY ISSUED OR COINED BY THE UNITED STATES, TO REFUND THE PUBLIC DEBT, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the dollar consisting of twenty-five and eight-tenths grains of gold nine-tenths fine, as established by section thirty-five hundred and eleven of the Revised Statutes of the United States, shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard, and it shall be the duty of the secretary of the Treasury to maintain such parity.

SEC. 2. That United States notes, and Treasury notes issued under the Act of July fourteenth, eighteen hundred and ninety, when presented to the Treasury for redemption, shall be redeemed in gold coin of the standard fixed in the first section of this Act, and in order to secure the prompt and certain redemption of such notes as herein provided it shall be the duty of the Secretary of the Treasury to set apart in the Treasury a reserve fund of one hundred and fifty million dollars in gold coin and bullion, which fund shall be used for such redemption purposes only, and whenever and as often as any of said notes shall be redeemed from said fund it shall be the duty of the Secretary of the Treasury to use said notes so redeemed to restore and maintain such reserve fund in the manner following, to wit: First, by exchanging the notes so redeemed for any gold coin in the general fund of the Treasury; second, by accepting deposits of gold coin at the Treasury or at any subtreasury in exchange for the United States notes so redeemed; third, by procuring gold coin by the use of said

Dollar standard unit of value.

Redemption of U. S. notes and treasury notes.

Maintenance of reserve.

*Issuing of bonds
to maintain
reserve.*

notes, in accordance with the provisions of section thirty-seven hundred of the Revised Statutes of the United States. If the Secretary of the Treasury is unable to restore and maintain the gold coin in the reserve fund by the foregoing methods, and the amount of such gold coin and bullion in said fund shall at any time fall below one hundred million dollars, then it shall be his duty to restore the same to the maximum sum of one hundred and fifty million dollars by borrowing money on the credit of the United States, and for the debt thus incurred to issue and sell coupon or registered bonds of the United States, in such form as he may prescribe, in denominations of fifty dollars or any multiple thereof, bearing interest at the rate of not exceeding three per centum per annum, payable quarterly, such bonds to be payable at the pleasure of the United States after one year from the date of their issue, and to be payable, principal and interest, in gold coin of the present standard value, and to be exempt from the payment of all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority; and the gold coin received from the sale of said bonds shall first be covered into the general fund of the Treasury and then exchanged, in the manner hereinbefore provided, for an equal amount of the notes redeemed and held for exchange, and the Secretary of the Treasury may, in his discretion, use said notes in exchange for gold, or to purchase or redeem any bonds of the United States, or for any other lawful purpose the public interests may require, except that they shall not be used to meet deficiencies in the current revenues. That United States notes when redeemed in accordance with the provisions of this section shall be reissued, but shall be held in the reserve fund until exchanged for gold, as herein provided; and the gold coin and bullion in the reserve fund, together with the redeemed notes held for use as provided in this section, shall at no time exceed the maximum sum of one hundred and fifty million dollars.

Notes re-issued.

Legal tender.

SEC. 3. That nothing contained in this Act shall be construed to affect the legal-tender quality as now provided by law of the silver dollar, or of any other money coined or issued by the United States.

SEC. 4. That there be established in the Treasury Department, as a part of the office of the Treasurer of the United States, divisions to be designated and known as the division of issue and the division of redemption, to which shall be assigned, respectively, under such regulations as the Secretary of the Treasury may approve, all records and accounts relating to the issue and redemption of United States notes, gold certificates, silver certificates, and currency certificates. There shall be transferred from the accounts of the general fund of the Treasury of the United States, and taken up on the books of said divisions, respectively, accounts relating to the reserve fund for the redemption of United States notes and Treasury notes, the gold coin held against outstanding gold certificates, the United States notes held against outstanding currency certificates, and the silver dollars held against outstanding silver certificates, and each of the funds represented by these accounts shall be used for the redemption of the notes and certificates for which they are respectively pledged, and shall be used for no other purpose, the same being held as trust funds.

*Divisions of
issue and
redemption.*

*Reserves are
trust funds.*

SEC. 5. That it shall be the duty of the Secretary of the Treasury, as fast as standard silver dollars are coined under the provisions of the Acts of July fourteenth, eighteen hundred and ninety, and June thirteenth, eighteen hundred and ninety-eight, from bullion purchased under the Act of July fourteenth, eighteen hundred and ninety, to retire and cancel an equal amount of Treasury notes whenever received into the Treasury, either by exchange in accordance with the provisions of this Act or in the ordinary course of business, and upon the cancellation of Treasury notes silver certificates shall be issued against the silver dollars so coined.

*Coinage of
silver dollars.*

*Retirement of
treasury notes.*

SEC. 6. (As amended by act of March 4, 1907.) That the Secretary of the Treasury is hereby authorized and directed to receive deposits of gold coin with the Treasurer or any assistant treasurer of the United States in sums of not less than twenty dollars, and to issue gold certificates therefor in denominations of not less than ten dollars, and the coin so deposited shall be retained in the Treasury and held for the payment of such certificates on demand, and used for no other purpose. Such certificates shall be

Gold certificates.

*When authority
to issue is
suspended.*

*Amount of
U. S. notes
outstanding
fixed by law,
limited.*

receivable for customs, taxes, and all public dues, and when so received may be reissued, and when held by any national banking association may be counted as a part of its lawful reserve: *Provided*, That whenever and so long as the gold coin and bullion held in the reserve fund in the Treasury for the redemption of United States notes and Treasury notes shall fall and remain below one hundred million dollars the authority to issue certificates as herein provided shall be suspended: *And provided further*, That whenever and so long as the aggregate amount of United States notes and silver certificates in the general fund of the Treasury shall exceed sixty million dollars the Secretary of the Treasury may, in his discretion, suspend the issue of the certificates herein provided for: *And provided further*, That of the amount of such outstanding certificates one-fourth at least shall be in denominations of fifty dollars or less: *And provided further*, That the Secretary of the Treasury may, in his discretion, issue such certificates in denominations of ten thousand dollars, payable to order. And section fifty-one hundred and ninety-three of the Revised Statutes of the United States is hereby repealed. The act of March 4, 1907 (sec. 2), provides that whenever and so long as the outstanding silver certificates of the denominations of one dollar, two dollars, and five dollars, issued under the provisions of section seven of an Act entitled "An Act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes," approved March fourteenth, nineteen hundred, shall be, in the opinion of the Secretary of the Treasury, insufficient to meet the public demand therefor, he is hereby authorized to issue United States notes of the denominations of one dollar, two dollars, and five dollars, and upon the issue of United States notes of such denominations an equal amount of United States notes of higher denominations shall be retired and canceled: *Provided, however*, That the aggregate amount of United States notes at any time outstanding shall remain as at present fixed by law: *And provided further*, That nothing in this Act shall be construed as affecting the right of any national bank to issue one-third in amount of its circulating notes of the denomination of five dollars, as now provided by law.

SEC. 7. That hereafter silver certificates shall be issued only of denominations of ten dollars and under, except that not exceeding in the aggregate ten per centum of the total volume of said certificates, in the discretion of the Secretary of the Treasury, may be issued in denominations of twenty dollars, fifty dollars, and one hundred dollars; and silver certificates of higher denomination than ten dollars, except as herein provided, shall, whenever received at the Treasury or redeemed, be retired and canceled, and certificates of denominations of ten dollars or less shall be substituted therefor, and after such substitution, in whole or in part, a like volume of United States notes of less denomination than ten dollars shall from time to time be retired and canceled, and notes of denominations of ten dollars and upward shall be reissued in substitution therefor, with like qualities and restrictions as those retired and canceled.

Silver certificates.

SEC. 8. That the Secretary of the Treasury is hereby authorized to use, at his discretion, any silver bullion in the Treasury of the United States purchased under the Act of July fourteenth, eighteen hundred and ninety, for coinage into such denominations of subsidiary silver coin as may be necessary to meet the public requirements for such coin: *Provided*, That the amount of subsidiary silver coin outstanding shall not at any time exceed in the aggregate one hundred millions of dollars. Whenever any silver bullion purchased under the Act of July fourteenth, eighteen hundred and ninety, shall be used in the coinage of subsidiary silver coin, an amount of Treasury notes issued under said Act equal to the cost of the bullion contained in such coin shall be canceled and not reissued.

Subsidiary coin.

SEC. 9. That the Secretary of the Treasury is hereby authorized and directed to cause all worn and uncurrent subsidiary silver coin of the United States now in the Treasury, and hereafter received, to be recoinced, and to reimburse the Treasurer of the United States for the difference between the nominal or face value of such coin and the amount the same will produce in new coin from any moneys in the Treasury not otherwise appropriated.

Worn and uncurrent subsidiary silver coin.

SEC. 10. That section fifty-one hundred and thirty-eight of the Revised Statutes is hereby amended so as to read as follows:

Amendment to section 5138, "Section 5138. No association shall be organized with a less capital than one hundred thousand dollars, except that banks with
R. S. a capital of not less than fifty thousand dollars may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants, and except that banks with a capital of not less than twenty-five thousand dollars may, with the sanction of the Secretary of the Treasury, be organized in any place the population of which does not exceed three thousand inhabitants. No association shall be organized in a city the population of which exceeds fifty thousand persons with a capital of less than two hundred thousand dollars."

Exchange of outstanding U. S. bonds authorized. SEC. 11. That the Secretary of the Treasury is hereby authorized to receive at the Treasury any of the outstanding bonds of the United States bearing interest at five per centum per annum, payable February first, nineteen hundred and four, and any bonds of the United States bearing interest at four per centum per annum, payable July first, nineteen hundred and seven, and any bonds of the United States bearing interest at three per centum per annum, payable August first, nineteen hundred and eight, and to issue in exchange therefor an equal amount of coupon or registered bonds of the United States in such form as he may prescribe, in denominations of fifty dollars or any multiple thereof, bearing interest at the rate of two per centum per annum, payable quarterly, such bonds to be payable at the pleasure of the United States after thirty years from the date of their issue, and said bonds to be payable, principal and interest, in gold coin of the present standard value, and to be exempt from the payment of all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority: *Provided*, That such outstanding bonds may be received in exchange at a valuation not greater than their present worth to yield an income of two and one-quarter per centum per annum; and in consideration of the reduction of interest effected, the Secretary of the Treasury is authorized to pay to the

holders of the outstanding bonds surrendered for exchange, out of any money in the Treasury not otherwise appropriated, a sum not greater than the difference between their present worth, computed as aforesaid, and their par value, and the payments to be made hereunder shall be held to be payments on account of the sinking fund created by section thirty-six hundred and ninety-four of the Revised Statutes; *And provided further*, That the two per centum bonds to be issued under the provisions of this Act shall be issued at not less than par, and they shall be numbered consecutively in the order of their issue, and when payment is made the last numbers issued shall be first paid, and this order shall be followed until all the bonds are paid, and whenever any of the outstanding bonds are called for payment interest thereon shall cease three months after such call; and there is hereby appropriated out of any money in the Treasury not otherwise appropriated, to effect the exchanges of bonds provided for in this Act, a sum not exceeding one-fifteenth of one per centum of the face value of said bonds, to pay the expense of preparing and issuing the same and other expenses incident thereto.

SEC. 12. That upon the deposit with the Treasurer of the United States, by any national banking association, of any bonds of the United States in the manner provided by existing law, such association shall be entitled to receive from the Comptroller of the Currency circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited; and any national banking associations now having bonds on deposit for the security of circulating notes, and upon which an amount of circulating notes has been issued less than the par value of the bonds, shall be entitled, upon due application to the Comptroller of the Currency, to receive additional circulating notes in blank to an amount which will increase the circulating notes held by such association to the par value of the

*Deposit of bonds
to secure
circulating notes.*

bonds deposited, such additional notes to be held and treated in the same way as circulating notes of national banking associations heretofore issued, and subject to all the provisions of law affecting such notes: *Provided*, That nothing herein contained shall be construed to modify or repeal the provisions of section fifty-one hundred and sixty-seven of the Revised Statutes of the United States, authorizing the Comptroller of the Currency to require additional deposits of bonds or of lawful money in case the market value of the bonds held to secure the circulating notes shall fall below the par value of the circulating notes outstanding for which such bonds may be deposited as security: *And provided further*, That the circulating notes furnished to national banking associations under the provisions of this Act shall be of the denominations prescribed by law, except that no national banking association shall, after the passage of this Act, be entitled to receive from the Comptroller of the Currency, or to issue or reissue or place in circulation, more than one-third in amount of its circulating notes of the denomination of five dollars: *And provided further*, That the total amount of such notes issued to any such association may equal at any time but shall not exceed the amount at such time of its capital stock actually paid in: *And provided further*, That under regulations to be prescribed by the Secretary of the Treasury any national banking association may substitute the two per centum bonds issued under the provisions of this Act for any of the bonds deposited with the Treasurer to secure circulation or to secure deposits of public money; and so much of an Act entitled "An Act to enable national banking associations to extend their corporate existence, and for other purposes," approved July twelfth, eighteen hundred and eighty-two, as prohibits any national bank which makes any deposit of lawful money in order to withdraw its circulating notes from receiving any increase of its circulation for the period of six months from the time it made such deposit of lawful money for the purpose aforesaid, is hereby repealed, and all other

Additional security.

Denomination of notes.

Total amount of notes.

Substitution of bonds.

Acts or parts of Acts inconsistent with the provisions of this section are hereby repealed.

SEC. 13. 5214 [as amended May 30, 1908, see page 224]. *Tax on notes.*

SEC. 14. That the provisions of this Act are not intended to preclude the accomplishment of international bimetallism whenever conditions shall make it expedient and practicable to secure the same by concurrent action of the leading commercial nations of the world and at a ratio which shall insure permanence of relative value between gold and silver. *International bimetallism.*

FAILED NATIONAL BANKS, ETC.

Provided, That for the fiscal year of nineteen hundred and two and thereafter, a full and complete list of all officers, agents, clerks, and other employees of the office of the Comptroller of the Currency, including bank examiners, receivers and attorneys for receivers, and clerks employed by such examiners and receivers, or any other person connected with the work of said office in Washington or elsewhere, whose salary or compensation is paid from the Treasury of the United States or assessed against or collected from existing or failed banks under their supervision or control, shall be transmitted to the Secretary of the Interior in accordance with the provisions of an Act of Congress approved January twelfth, eighteen hundred and eighty-five, relating to the Official Register: *And provided further*, That the Comptroller of the Currency is hereby directed to include in his Annual Report to the Speaker of the House of Representatives, expenses incurred during each year, in liquidation of each failed national bank separately. *Provisions of Act of April 28, 1902.*

CORPORATION CONTRIBUTIONS TO POLITICAL ELECTIONS PROHIBITED

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any national bank, or any corporation organized by authority of any laws of Congress, to make a money contribution in connection with any election to any political office. It shall *Act of January 26, 1907.*

also be unlawful for any corporation whatever to make a money contribution in connection with any election at which Presidential and Vice-Presidential electors or a Representative in Congress is to be voted for or any election by any State legislature of a United States Senator. Every corporation which shall make any contribution in violation of the foregoing provisions shall be subject to a fine not exceeding five thousand dollars, and every officer or director of any corporation who shall consent to any contribution by the corporation in violation of the foregoing provisions shall upon conviction be punished by a fine of not exceeding one thousand and not less than two hundred and fifty dollars, or by imprisonment for a term of not more than one year, or both such fine and imprisonment in the discretion of the court.

Additional Circulation Act

(Emergency Currency Act)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That national banking associations, each having an unimpaired capital and a surplus of not less than twenty per centum, not less than ten in number, having an aggregate capital and surplus of at least five millions of dollars, may form voluntary associations to be designated as national currency associations. The banks uniting to form such association shall, by their presidents or vice-presidents, acting under authority from the board of directors, make and file with the Secretary of the Treasury a certificate setting forth the names of the banks composing the association, the principal place of business of the association, and the name of the association, which name shall be subject to the approval of the Secretary of the Treasury. Upon the filing of such certificate the associated banks therein named shall become a body corporate, and by the name so designated and approved may sue and be sued and exercise the powers of a body corporate for the purposes hereinafter mentioned: *Provided*, That not more than one such national currency association shall be formed in any city: *Provided further*, That the several members of such national currency association shall be taken, as nearly as conveniently may be, from a territory composed of a State or part of a State, or contiguous parts of one or more States: *And provided further*, That any national bank in such city or territory, having the qualifications herein prescribed for membership in such national currency association, shall, upon its application to and upon the approval of the Secretary of the Treasury, be admitted to membership in a national currency association for that city or territory, and upon such admission shall be deemed and held a part of the body corporate, and as such entitled to all

*National
currency
associations.*

*Certificate to be
filed with
Secretary of the
Treasury.*

Membership.

Bank may belong to but one association. the rights and privileges and subject to all the liabilities of an original member: *And provided further*, That each national currency association shall be composed exclusively of banks not members of any other national currency association.

The dissolution, voluntary or otherwise, of any bank in such association shall not affect the corporate existence of the association unless there shall then remain less than the minimum number of ten banks: *Provided, however*, That the reduction of the number of said banks below the minimum of ten shall not affect the existence of the corporation with respect to the association of all rights in favor of or against such association. The affairs of the association shall be managed by a board consisting of one representative from each bank. By-laws for the government of the association shall be made by the board, subject to the approval of the Secretary of the Treasury. A president, vice-president, secretary, treasurer, and an executive committee of not less than five members, shall be elected by the board. The powers of such board, except in the election of officers and making of by-laws, may be exercised through its executive committee.

Management.

By-Laws.

Officers.

Powers of board.

Purposes.

Securities basis for additional circulation.

Application by members of association for additional circulation.

Deposit of securities.

The national currency association herein provided for shall have and exercise any and all powers necessary to carry out the purposes of this section, namely, to render available, under the direction and control of the Secretary of the Treasury, as a basis for additional circulation any securities, including commercial paper, held by a national banking association. For the purpose of obtaining such additional circulation, any bank belonging to any national currency association, having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than forty per centum of its capital stock, and which has its capital unimpaired and a surplus of not less than twenty per centum, may deposit with and transfer to the association, in trust for the United States, for the purpose hereinafter provided, such of the securities above mentioned as may be satisfactory to the board of the association. The officers of the association may thereupon, in behalf of such bank, make application to the

Comptroller of the Currency for an issue of additional circulating notes to an amount not exceeding seventy-five per centum of the cash value of the securities or commercial paper so deposited. The Comptroller of the Currency shall immediately transmit such application to the Secretary of the Treasury with such recommendation as he thinks proper, and if, in the judgment of the Secretary of the Treasury, business conditions in the locality demand additional circulation, and if he be satisfied with the character and value of the securities proposed and that a lien in favor of the United States on the securities so deposited and on the assets of the banks composing the association will be amply sufficient for the protection of the United States, he may direct an issue of additional circulating notes to the association, on behalf of such bank, to an amount in his discretion, not, however, exceeding seventy-five per centum of the cash value of the securities so deposited: *Provided*, That upon the deposit of any of the State, city, town, county, or other municipal bonds, of a character described in section three of this Act, circulating notes may be issued to the extent of not exceeding ninety per centum of the market value of such bonds so deposited: *And provided, further*, That no national banking association shall be authorized in any event to issue circulating notes based on commercial paper in excess of thirty per centum of its unimpaired capital and surplus. The term "commercial paper" shall be held to include only notes representing actual commercial transactions, which when accepted by the association shall bear the names of at least two responsible parties and have not exceeding four months to run.

Additional circulation limited to seventy-five per centum of cash value of commercial securities.

Ninety per centum in case of municipals.

Additional limitations.

Commercial paper.

The banks and the assets of all banks belonging to the association shall be jointly and severally liable to the United States for the redemption of such additional circulation; and to secure such liability the lien created by section fifty-two hundred and thirty of the Revised Statutes shall extend to and cover the assets of all banks belonging to the association, and to the securities deposited

Liability of members of association.

by the banks with the association pursuant to the provisions of this Act; but as between the several banks composing such association each bank shall be liable only in the proportion that its capital and surplus bears to the aggregate capital and surplus of all such banks. The association may, at any time, require of any of its constituent banks a deposit of additional securities or commercial paper, or an exchange of the securities already on deposit, to secure such additional circulation; and in case of the failure of such bank to make such deposit or exchange the association may, after ten days' notice to the bank, sell the securities and paper already in its hand at public sale, and deposit the proceeds with the Treasurer of the United States as a fund for the redemption of such additional circulation. If such fund be insufficient for that purpose the association may recover from the bank the amount of the deficiency by suit in the circuit court of the United States, and shall have the benefit of the lien hereinbefore provided for in favor of the United States upon the assets of such bank. The association or the Secretary of the Treasury may permit or require the withdrawal of any such securities or commercial paper and the substitution of other securities or commercial paper of equal value therefor.

Additional securities. *Failure to deposit.* *Associations may be sued in U. S. circuit court.* *Substitution of securities.* *Redemption fund.* *Failure to make good.*

SEC. 2. That whenever any bank belonging to a national currency association shall fail to preserve or make good its redemption fund in the Treasury of the United States, required by section three of the Act of June twentieth, eighteen hundred and seventy-four, chapter three hundred and forty-three, and the provisions of this Act, the Treasurer of the United States shall notify such national currency association to make good such redemption fund, and upon the failure of such national currency association to make good such fund, the Treasurer of the United States may, in his discretion, apply so much of the redemption fund belonging to the other banks composing such national currency association as

may be necessary for that purpose; and such national currency association may, after five days' notice to such bank, proceed to sell at public sale the securities deposited by such bank with the association pursuant to the provisions of section one of this Act, and deposit the proceeds with the Treasurer of the United States as a fund for the redemption of the additional circulation taken out by such bank under this Act.

SEC. 3. That any national banking association which has circulating notes outstanding, secured by the deposit of United States bonds to an amount of not less than forty per centum of its capital stock, and which has a surplus of not less than twenty per centum, may make application to the Comptroller of the Currency for authority to issue additional circulating notes to be secured by the deposit of bonds other than bonds of the United States. The Comptroller of the Currency shall transmit immediately the application, with his recommendation, to the Secretary of the Treasury, who shall, if in his judgment business conditions in the locality demand additional circulation, approve the same, and shall determine the time of issue and fix the amount, within the limitations herein imposed, of the additional circulating notes to be issued. Whenever after receiving notice of such approval any such association shall deposit with the Treasurer or any assistant treasurer of the United States such of the bonds described in this section as shall be approved in character and amount by the Treasurer of the United States and the Secretary of the Treasury, it shall be entitled to receive, upon the order of the Comptroller of the Currency, circulating notes in blank, registered and countersigned as provided by law, not exceeding in amount ninety per centum of the market value, but not in excess of the par value of any bonds so deposited, such market value to be ascertained and determined under the direction of the Secretary of the Treasury.

Application by association as a corporate body for additional circulation.

Deposit of securities.

Additional circulation limited to ninety per centum of market value of securities.

Bonds available for security. The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall accept as security for the additional circulating notes provided for in this section, bonds or other interest-bearing obligations of any State of the United States, or any legally authorized bonds issued by any city, town, county, or other legally constituted municipality or district in the United States which has been in existence for a period of ten years, and which for a period of ten years previous to such deposit has not defaulted in the payment of any part of either principal or interest of any funded debt authorized to be contracted by it, and whose net funded indebtedness does not exceed ten per centum of the valuation of its taxable property, to be ascertained by the last preceding valuation of property for the assessment of taxes. The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall accept, for the purposes of this section, securities herein enumerated in such proportions as he may from time to time determine, and he may with such approval at any time require the deposit of additional securities, or require any association to change the character of the securities already on deposit.

Legal title of bonds to be transferred. SEC. 4. That the legal title of all bonds, whether coupon or registered, deposited to secure circulating notes issued in accordance with the terms of section three of this Act shall be transferred to the Treasurer of the United States in trust for the association depositing them, under regulations to be prescribed by the Secretary of the Treasury. A receipt shall be given to the association by the Treasurer or any assistant treasurer of the United States, stating that such bond is held in trust for the association on whose behalf the transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bond by the Treasurer shall be deemed valid unless countersigned by the Comptroller of the Currency. The provisions of sections fifty-one hundred

and sixty-three, fifty-one hundred and sixty-four, fifty-one hundred and sixty-five, fifty-one hundred and sixty-six, and fifty-one hundred and sixty-seven and sections fifty-two hundred and twenty-four to fifty-two hundred and thirty-four, inclusive, of the Revised Statutes respecting United States bonds deposited to secure circulating notes shall, except as herein modified, be applicable to all bonds deposited under the terms of section three of this Act.

SEC. 5. That the additional circulating notes issued under this Act shall be used, held, and treated in the same way as circulating notes of national banking associations heretofore issued and secured by a deposit of United States bonds, and shall be subject to all the provisions of law affecting such notes except as herein expressly modified: *Provided*, That the total amount of circulating notes outstanding of any national banking association, including notes secured by United States bonds as now provided by law, and notes secured otherwise than by deposit of such bonds, shall not at any time exceed the amount of its unimpaired capital and surplus: *And provided further*, That there shall not be outstanding at any time circulating notes issued under the provisions of this Act to an amount of more than five hundred millions of dollars.

*Status of
additional
circulating notes.*

Limit of issue.

SEC. 6. That whenever and so long as any national banking association has outstanding any of the additional circulating notes authorized to be issued by the provisions of this Act, it shall keep on deposit in the Treasury of the United States, in addition to the redemption fund required by section three of the Act of June twentieth, eighteen hundred and seventy-four, an additional sum equal to five per centum of such additional circulation at any time outstanding, such additional five per centum to be treated, held, and used in all respects in the same manner as the original redemption fund provided for by said section three of the Act of June twentieth, eighteen hundred and seventy-four.

*Amount in
redemption fund
must cover
additional
circulation.*

Distribution of notes geographically. SEC. 7. In order that the distribution of notes to be issued under the provisions of this Act shall be made as equitable as practicable between the various sections of the country, the Secretary of the Treasury shall not approve applications from associations in any State in excess of the amount to which such State would be entitled of the additional notes herein authorized on the basis of the proportion which the unimpaired capital and surplus of the national banking associations in such State bears to the total amount of unimpaired capital and surplus of the national banking associations of the United States: *Provided, however,* That in case the applications from associations in any State shall not be equal to the amount which the associations of such State would be entitled to under this method of distribution, the Secretary of the Treasury may, in his discretion, to meet an emergency, assign the amount not thus applied for to any applying association or associations in States in the same section of the country.

Information relative to value of securities pledged. SEC. 8. That it shall be the duty of the Secretary of the Treasury to obtain information with reference to the value and character of the securities authorized to be accepted under the provisions of this Act, and he shall from time to time furnish information to national banking associations as to such securities as would be acceptable under the provisions of this Act.

Amendment to section 5214 R. S. SEC. 9. That section fifty-two hundred and fourteen of the Revised Statutes, as amended, be further amended to read as follows:

Tax on circulation. "SEC. 5214. National banking associations having on deposit bonds of the United States, bearing interest at the rate of two per centum per annum, including the bonds issued for the construction of the Panama Canal, under the provisions of section eight of 'An Act to provide for the construction of a canal connecting the waters of the

Atlantic and Pacific Oceans,' approved June twenty-eighth, nineteen hundred and two, to secure its circulating notes, shall pay to the Treasurer of the United States, in the months of January and July, a tax of one-fourth of one per centum each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds; and such associations having on deposit bonds of the United States bearing interest at a rate higher than two per centum per annum shall pay a tax of one-half of one per centum each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds. National banking associations having circulating notes secured otherwise than by bonds of the United States shall pay for the first month a tax at the rate of five per centum per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax of one per centum per annum for each month until a tax of ten per centum per annum is reached, and thereafter such tax of ten per centum per annum, upon the average amount of such notes. Every national banking association having outstanding circulating notes secured by a deposit of other securities than United States bonds shall make monthly returns, under oath of its president or cashier, to the Treasurer of the United States, in such form as the Treasurer may prescribe, of the average monthly amount of its notes so secured in circulation; and it shall be the duty of the Comptroller of the Currency to cause such reports of notes in circulation to be verified by examination of the bank's records. The taxes received on circulating notes secured otherwise than by bonds of the United States shall be paid into the Division of Redemption of the Treasury and credited and added to the reserve fund held for the redemption of United States and other notes."

*Secured by
U. S. bonds.*

*Secured by other
than U. S. bonds.*

*Monthly returns
under oath.*

SEC. 10. That section nine of the Act approved July twelfth, eighteen hundred and eighty-two, as amended by the Act approved

*Amendment
to R. S.*

March fourth, nineteen hundred and seven, be further amended to read as follows:

Withdrawal of circulating notes. "SEC. 9. That any national banking association desiring to withdraw its circulating notes, secured by deposit of United States bonds in the manner provided in section four of the Act approved June twentieth, eighteen hundred and seventy-four, is hereby authorized for that purpose to deposit lawful money with the Treasurer of the United States and, with the consent of the Comptroller of the Currency and the approval of the Secretary of the Treasury to withdraw a proportionate amount of bonds held as security for its circulating notes in the order of such deposits: *Provided*, That not more than nine millions of dollars of lawful money shall be so deposited during any calendar month for this purpose.

"Any national banking association desiring to withdraw any of its circulating notes, secured by the deposit of securities other than bonds of the United States, may make such withdrawal at any time in like manner and effect by the deposit of lawful money or national bank notes with the Treasurer of the United States, and upon such deposit a proportionate share of the securities so deposited may be withdrawn: *Provided*, That the deposits under this section to retire notes secured by the deposit of securities other than bonds of the United States shall not be covered into the Treasury, as required by section six of an Act entitled 'An Act directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes,' approved July fourteenth, eighteen hundred and ninety, but shall be retained in the Treasury for the purpose of redeeming the notes of the bank making such deposit."

Amendment to section 5172, R. S. SEC. 11. That section fifty-one hundred and seventy-two of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 5172. In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, one thousand dollars, and ten thousand dollars, as may be required to supply the associations entitled to receive the same. Such notes shall state upon their face that they are secured by United States bonds or other securities, certified by the written or engraved signatures of the Treasurer and Register and by the imprint of the seal of the Treasury. They shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signature of the president or vice-president and cashier. The Comptroller of the Currency, acting under the direction of the Secretary of the Treasury, shall as soon as practicable cause to be prepared circulating notes in blank, registered and countersigned, as provided by law, to an amount equal to fifty per centum of the capital stock of each national banking association; such notes to be deposited in the Treasury or in the subtreasury of the United States nearest the place of business of each association, and to be held for such association, subject to the order of the Comptroller of the Currency, for their delivery as provided by law: *Provided*, That the Comptroller of the Currency may issue national bank notes of the present form until plates can be prepared and circulating notes issued as above provided: *Provided, however*, That in no event shall bank notes of the present form be issued to any bank as additional circulation provided for by this Act."

Printing of circulating notes.

Distribution.

SEC. 12. That circulating notes of national banking associations, when presented to the Treasury for redemption, as provided in section three of the Act approved June twentieth, eighteen hundred and seventy-four, shall be redeemed in lawful money of the United States.

Redemption at treasury.

Authority. SEC. 13. That all acts and orders of the Comptroller of the Currency and the Treasurer of the United States authorized by this Act shall have the approval of the Secretary of the Treasury, who shall have power, also, to make any such rules and regulations and exercise such control over the organization and management of national currency associations as may be necessary to carry out the purposes of this Act.

Public deposits. SEC. 14. That the provisions of section fifty-one hundred and ninety-one of the Revised Statutes, with reference to the reserves of national banking associations, shall not apply to deposits of public moneys by the United States in designating depositaries.

Interest on deposits. SEC. 15. That all national banking associations designated as regular depositaries of public money shall pay upon all special and additional deposits made by the Secretary of the Treasury in such depositaries, and all such associations designated as temporary depositaries of public money shall pay upon all sums of public money deposited in such associations interest at such rate as the Secretary of the Treasury may prescribe, not less, however, than one per centum per annum upon the average monthly amount of such deposits: *Provided, however,* That nothing contained in this Act shall be construed to change or modify the obligation of any association or any of its officers for the safe-keeping of public money: *Provided, further,* that the rate of interest charged upon such deposits shall be equal and uniform throughout the United States.

Appropriation to carry out act. SEC. 16. That a sum sufficient to carry out the purposes of the preceding sections of this Act is hereby appropriated out of any money in the Treasury not otherwise appropriated.

National Monetary Commission. SEC. 17. That a Commission is hereby created, to be called the "National Monetary Commission," to be composed of nine members of the Senate, to be appointed by the Presiding Officer thereof, and nine members of the House of Representatives, to be appointed by the Speaker thereof; and any vacancy on the Commission shall be filled in the same manner as the original appointment.

SEC. 18. That it shall be the duty of this Commission to inquire into and report to Congress at the earliest date practicable, what

changes are necessary or desirable in the monetary system of the United States or in the laws relating to banking and currency, and for this purpose they are authorized to sit during the sessions or recess of Congress, at such times and places as they may deem desirable, to send for persons and papers, to administer oaths, to summons and compel the attendance of witnesses, and to employ a disbursing officer and such secretaries, experts, stenographers, messengers and other assistants as shall be necessary to carry out the purposes for which said Commission was created. The Commission shall have the power, through subcommittee or otherwise, to examine witnesses and to make such investigations and examinations, in this or other countries, of the subjects committed to their charge as they shall deem necessary. *Duty of commission.*

SEC. 19. That a sum sufficient to carry out the purposes of sections seventeen and eighteen of this Act, and to pay the necessary expenses of the Commission and its members, is hereby appropriated, out of any money in the Treasury not otherwise appropriated. Said appropriation shall be immediately available and shall be paid out on the audit and order of the chairman or acting chairman of said Commission, which audit and order shall be conclusive and binding upon all Departments as to the correctness of the accounts of such Commission. *Expenses of commission.*

SEC. 20. That this Act shall expire by limitation on the thirtieth day of June, nineteen hundred and fourteen. *Expiration of act.*

Approved, May 30, 1908.

Date of act.

Postal Savings Bank Act

AN ACT TO ESTABLISH POSTAL SAVINGS DEPOSITORIES FOR DEPOSITING SAVINGS AT INTEREST WITH THE SECURITY OF THE GOVERNMENT FOR REPAYMENT THEREOF, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, created a board of trustees for the control, supervision, and administration of the postal savings depository offices designated and established under the provisions of this Act, and of the funds received as deposits at such postal savings depository offices by virtue thereof. Said board shall consist of the Postmaster-General, the Secretary of the Treasury, and the Attorney-General, severally, acting ex-officio, and shall have power to make all necessary and proper regulations for the receipt, transmittal, custody, deposit, investment, and repayment of the funds deposited at postal savings depository offices. *Creation of board of trustees.*

The board of trustees shall submit a report to Congress at the beginning of each regular session showing by States and Territories (for the preceding fiscal year) the number and names of post-offices receiving deposits, the aggregate amount of deposits made therein, the aggregate amount of withdrawals therefrom, the number of depositors in each, the total amount standing to the credit of all depositors at the conclusion of the year, the amount of such deposits at interest, the amount of interest received thereon, the amount of interest paid thereon, the amount of deposits surrendered by depositors for bonds issued by authority of this Act, and the number and amount of unclaimed deposits. Also the amount invested in government securities by the trustees, the amount of extra expense of the Post-Office Department and the postal service incident to the operation of the postal savings depository system, the *Reports of board of trustees.*

What information shall be included in reports.

amount of work done for the savings depository system by the Post-Office Department and postal service in the transportation of free mail, and all other facts which it may deem pertinent and proper to present.

SEC. 2. That the Postmaster-General is hereby directed to prepare and issue special stamps of the necessary denominations for use, in lieu of penalty or franked envelopes, in the transmittal of free mail resulting from the administration of this Act.

*Designation of
postoffices as
saving depository
offices.*

SEC. 3. That said board of trustees is hereby authorized and empowered to designate such post-offices as it may select to be postal savings depository offices, and each and every post-office so designated by order of said board is hereby declared to be a postal savings depository office within the meaning of this Act and to be authorized and required to receive deposits of funds from the public and to account for and dispose of the same, according to the provisions of this Act and the regulations made in pursuance thereof. Each postal savings depository office shall be kept open for the transaction of business during such hours as the Postmaster-General, with the approval of the board of trustees, shall direct.

*Who may open
accounts.*

SEC. 4. That accounts may be opened and deposits made in any postal savings depository established under this Act by any person of the age of ten years or over, in his or her own name, and by a married woman in her own name and free from any control or interference by her husband; but no person shall at the same time have more than one postal savings account in his or her own right.

Passbooks.

SEC. 5. That the postmaster at a postal savings depository office shall, upon the making of an application to open an account under this Act and the submission of an initial deposit, deliver to the depositor a pass book free of cost, upon which shall be written the name and signature or mark of the depositor and such other memoranda as may be necessary for purposes of identification, in which pass book entries of all deposits and withdrawals shall be made in both figures and writing: *Provided*, That the Postmaster-General may, with the approval of the board of trustees, adopt some other device or devices in lieu of a pass book as a means of making and preserving evidence of deposits and withdrawals.

SEC. 6. That at least one dollar, or a larger amount in multiples thereof, must be deposited before an account is opened with the person depositing the same, and one dollar, or multiples thereof, may be deposited after such account has been opened, but no one shall be permitted to deposit more than one hundred dollars in any one calendar month: *Provided*, That in order that smaller amounts may be accumulated for deposit any person may purchase for ten cents from any depository office a postal savings card, to which may be attached specially prepared adhesive stamps, to be known as "postal savings stamps," and when the stamps so attached amount to one dollar, or a larger sum in multiples thereof, including the ten-cent postal savings card, the same may be presented as a deposit for opening an account, and additions may be made to any account by means of such card and stamps in amounts of one dollar, or multiples thereof, and when a card and stamps thereto attached are accepted as a deposit the postmaster shall immediately cancel the same. It is hereby made the duty of the Postmaster-General to prepare such postal savings cards and postal savings stamps of denominations of ten cents, and to keep them on sale at every postal savings depository office, and to prescribe all necessary rules and regulations for the issue, sale, and cancellation thereof.

Limitation of accounts.

Minimum.

Maximum.

Postal savings stamps.

SEC. 7. That interest at the rate of two per centum per annum shall be allowed and entered to the credit of each depositor once in each year, the same to be computed on such basis and under such rules and regulations as the board of trustees may prescribe; but interest shall not be computed or allowed on fractions of a dollar; *Provided*, That the balance to the credit of any one person shall never be allowed to exceed five hundred dollars, exclusive of accumulated interest.

Interest on deposits.

Maximum deposit, \$500.

SEC. 8. That any depositor may withdraw the whole or any part of the funds deposited to his or her credit, with the accrued interest, upon demand and under such regulations as the board of trustees may prescribe. Withdrawals shall be paid from the deposits in the State or Territory, so far as the postal funds on deposit in such State or Territory may be sufficient for the purpose, and, so far as practicable, from the deposits in the community in which the deposit was made. No bank in which postal savings

Withdrawal of deposits.

funds shall be deposited shall receive any exchange or other fees or compensation on account of the cashing or cancellation of any checks or the performance of any other service in connection with the postal savings depository system.

*Deposit of
postal savings
funds in banks.*

*Interest on
such funds.*

Reserve.

*Bonds available
as security for
deposit of savings
funds.*

*Funds shall be
deposited in local
banks.*

*Withdrawal of
savings bank
funds.*

SEC. 9. That postal savings funds received under the provisions of this Act shall be deposited in solvent banks, whether organized under national or state laws, being subject to national or state supervision and examination, and the sums deposited shall bear interest at the rate of not less than two and one-fourth per centum per annum, which rate shall be uniform throughout the United States and Territories thereof; but five per centum of such funds shall be withdrawn by the board of trustees and kept with the Treasurer of the United States, who shall be treasurer of the board of trustees, in lawful money as a reserve. The board of trustees shall take from such banks such security in public bonds or other securities, supported by the taxing power, as the board may prescribe, approve, and deem sufficient and necessary to insure the safety and prompt payment of such deposits on demand.* The funds received at the postal savings depository offices in each city, town, village, and other locality shall be deposited in banks located therein (substantially in proportion to the capital and surplus of each such bank) willing to receive such deposits under the terms of this Act and the regulation made by authority thereof, but the amount deposited in any one bank shall at no time exceed the amount of the paid-in capital and one-half the surplus of such bank. If no such bank exist in any city, town, village, or locality, or if none where such deposits are made will receive such deposits on the terms prescribed, then such funds shall be deposited under the terms of this Act in the bank most convenient to such locality. If no such bank in any State or Territory is willing to receive such deposits on the terms prescribed, then the same shall be deposited with the treasurer of the board of trustees, and shall be counted in making up the reserve of five per centum. Such funds may be withdrawn from the treasurer of said board of trustees and all other postal savings funds, or any part of such funds, may be at any time withdrawn from banks and savings depository

*See note page 243.

offices for the repayment of postal savings depositors when required for that purpose. Not exceeding thirty per centum of the amount of such funds may at any time be withdrawn by the trustees for investment in bonds or other securities of the United States, it being the intent of this Act that the residue of such funds, amounting to sixty-five per centum thereof, shall remain on deposit in the banks in each State and Territory willing to receive the same under the terms of this Act, and shall be a working balance and also a fund which may be withdrawn for investment in bonds or other securities of the United States, but only by direction of the President, and only when, in his judgment, the general welfare and the interests of the United States so requires. Interest and profit accruing from the deposits or investment of postal savings funds shall be applied to the payment of interest due to postal savings depositors as hereinbefore provided, and the excess thereof, if any, shall be covered into the Treasury of the United States as a part of the postal revenue: *Provided*, That postal savings funds in the treasury of said board shall be subject to disposition as provided in this Act, and not otherwise: *And provided further*, That the board of trustees may at any time dispose of bonds held as postal savings investments and use the proceeds to meet withdrawals of deposits by depositors. For the purposes of this Act the word "Territory," as used herein, shall be held to include the District of Columbia, the District of Alaska, and Porto Rico, and the word "bank" shall be held to include savings banks and trust companies doing a banking business.

SEC. 10. That any depositor in a postal savings depository may surrender his deposit, or any part thereof, in sums of twenty dollars, one hundred dollars, and multiples of one hundred dollars and five hundred dollars, and receive in lieu of such surrendered deposits, under such regulations as may be established by the board of trustees, the amount of the surrendered deposits in United States coupon or registered bonds of the denominations of twenty dollars, one hundred dollars, and five hundred dollars, which bonds shall bear interest at the rate of two and one-half per centum per annum, payable semi-annually, and be redeemable at the pleasure of the United States after one year from the date of their issue and pay-

When bonds may be issued. able twenty years from such date, and both principal and interest shall be payable in United States gold coin of the present standard of value: *Provided*, That the bonds herein authorized shall be issued only (first) when there are outstanding bonds of the United States subject to call, in which case the proceeds of the bonds shall be applied to the redemption at par of outstanding bonds of the United States subject to call, and (second) at times when under authority of law other than that contained in this Act the Government desires to issue bonds for the purpose of replenishing the Treasury, in which case the issue of bonds under authority of this Act shall be in lieu of the issue of a like amount of bonds issuable under authority of law other than that contained in this Act: *Provided further*, That the bonds authorized by this Act shall be issued by the Secretary of the Treasury under such regulations as he may prescribe: *And provided further*, That the authority contained in section nine of this Act for the investment of postal savings funds in United States bonds shall include the authority to invest in the bonds herein authorized whenever such bonds may be lawfully issued: *And provided further*, That the bonds herein authorized shall be exempt from all taxes or duties of the United States as well as from taxation in any form by or under state, municipal, or local authority: *And provided further*, That no bonds authorized by this Act shall be receivable by the Treasurer of the United States as security for the issue of circulating notes by national banking associations.

Bonds shall be exempt from taxation.

Bonds not available as security for circulation.

Investment of funds in United States bonds by trustees. SEC. 11. That whenever the trustees of the postal savings fund have in their possession funds available for investment in United States bonds they may notify the Secretary of the Treasury of the amount of such funds in their hands which they desire to invest in bonds of the United States subject to call, whereupon, if there are United States bonds subject to call, the Secretary of the Treasury shall call for redemption an amount of such bonds equal to the amount of the funds in the hands of the trustees which the trustees desire to thus invest, and the bonds so called shall be redeemed at par with accrued interest at the Treasury of the United States on and after three months from

the date of such call, and interest on the said bonds shall thereupon cease: *Provided*, That the said bonds when redeemed shall be reissued at par to the trustees without change in their terms as to rate of interest and date of maturity: *And provided further*, That the bonds so reissued may, in the discretion of the Secretary of the Treasury, be called for redemption from the trustees in like manner as they were originally called for redemption from their former owners whenever there are funds in the Treasury of the United States available for such redemption.

Redemption of such bonds.

SEC. 12. That postal savings depository funds shall be kept separate from other funds by postmasters and other officers and employees of the postal service, who shall be held to the same accountability under their bonds for such funds as for public moneys; and no person connected with the Post-Office Department shall disclose to any person other than the depositor the amount of any deposits, unless directed so to do by the Postmaster-General. All statutes relating to the safe-keeping of and proper accounting for postal receipts are made applicable to postal savings funds, and the Postmaster-General may require postmasters, assistant postmasters, and clerks at postal savings depositories to give any additional bond he may deem necessary.

Amount of individual deposits not to be disclosed.

SEC. 13. That additional compensation shall be allowed postmasters as post-offices of the fourth class for the transaction of postal savings depository business. Such compensation shall not exceed one-fourth of one per centum on the average sum upon which interest is paid each calendar year on receipts at such post-office, and shall be paid from the postal revenues; but postmasters, assistant postmasters, clerks, or other employees at post-offices of the presidential grade shall not receive any additional compensation for such service.

Accounting for postal savings funds.

Compensation of postmasters.

SEC. 14. That the sum of one hundred thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, or so much thereof as may be necessary, to enable the Postmaster-General and the board of trustees to establish postal savings depositories in accordance with the provisions of this Act, including the reimbursement of the Secretary of the Treasury for expenses incident to the preparation, issue, and regis-

Enabling compensation to carry out act.

tration of the bonds authorized in this Act; and the Postmaster-General is authorized to require postmasters and other postal officers and employees to transact, in connection with their other duties, such postal savings depository business as may be necessary; and he is also authorized to make, and with the approval of the board of trustees to promulgate, and from time to time to modify or revoke, subject to the approval of said board, such rules and regulations not in conflict with law as he may deem necessary to carry the provisions of this Act into effect.

*Safeguards for
protection of
deposits.*

SEC. 15. That all the safeguards provided by law for the protection of public moneys, and all statutes relating to the embezzlement, conversion, improper handling, retention, use, or disposal of postal and money-order funds and the punishments provided for such offenses are hereby extended and made applicable to postal savings depository funds, and all statutes relating to false returns of postal and money-order business, the forgery, counterfeiting, alteration, improper use or handling of postal and money-order blanks, forms, vouchers, accounts, and records, and the dies, plates, and engravings therefor, with the penalties provided in such statutes, are hereby extended and made applicable to postal savings depository business, and the forgery, counterfeiting, alteration, improper use or handling of postal savings depository blanks, forms, vouchers, accounts, and records, and the dies, plates, and engravings therefor.

*Faith of United
States pledged to
depositors.*

SEC. 16. That the faith of the United States is solemnly pledged to the payment of the deposits made in postal savings depository offices, with accrued interest thereon as herein provided.

*Decree or order
of court having
jurisdiction
shall be accepted
as conclusive title
to deposits.*

SEC. 17. That the final judgment, order, or decree of any court of competent jurisdiction adjudicating any right or interest in the credit of any sums deposited by any person with a postal savings depository if the same shall not have been appealed from and the time for appeal has expired shall, upon submission to the Postmaster-General of a copy of the same, duly authenticated in the manner provided by the laws of the United States for the authentication of the records and judicial proceedings of the courts of any State or Territory or of any possession subject to the jurisdiction of the United States, when the same are proved or admitted within

any other court within the United States, be accepted and pursued by the board of trustees as conclusive of the title, right, interest, or possession so adjudicated, and any payment of said sum in accordance with such order, judgment, or decree shall operate as a full and complete discharge of the United States from the claim or demand of any person or persons to the same.

Approved, June 25, 1910.

INFORMATION CONCERNING POSTAL SAVINGS BONDS

ISSUED JANUARY 1, 1913.

DESCRIPTION OF POSTAL SAVINGS BONDS.

1. By applying on or before December 2, 1912, depositors of the Postal Savings System may exchange the whole or a part of their deposits for United States registered or coupon bonds in denominations of \$20, \$100, and \$500, bearing interest from January 1, 1913, at the rate of $2\frac{1}{2}$ per cent per annum, payable semi-annually, and redeemable at the pleasure of the United States after one year from the date of issue, both principal and interest payable twenty years from that date in United States gold coin.

2. Postal savings bonds are exempt from all taxes or duties of the United States, as well as from taxation in any form by or under state, municipal, or local authority.

3. Applications for the conversion of deposits into bonds on January 1, 1913, must be received on or before December 2, 1912, by the postmaster at the depository office where the certificates were issued. The postmaster will supply an application form, which must be made out in triplicate. The depositor must indorse and surrender with his application postal savings certificates covering the amount of the bonds desired, for which the postmaster will give him a receipt. The bonds will be issued by the Secretary of the Treasury, and as soon as they are ready will be delivered to the applicants.

*Conversion
of deposits.*

4. The conversion of deposits into bonds at a date less than one year after the certificates began to bear interest forfeits interest on the deposits as in the case of withdrawal for any other purpose.

5. Postal savings deposits converted into bonds are not counted as a part of the maximum of \$500 allowed one depositor, and there is no limitation on the amount of available postal savings bonds which may be acquired finally by a depositor. The exchange is considered as taking effect on January 1, and a depositor who has applied to convert into bonds all or part of the maximum balance of \$500 may deposit an additional amount in January, though the bonds may not yet have been delivered.

6. Postal savings bonds can be procured only by the conversion of postal savings deposits and will not be issued to persons who are not depositors. They may be sold or assigned to any person, however, by the holder, and when a registered bond is assigned a new bond will be issued in the name of the owner.

*Registered and
coupon bonds.*

7. The depositor's application must indicate whether bonds are desired in registered or coupon form. Coupon bonds are preferable for a depositor who intends to hold them for a short time only and who has ample facilities for their safe-keeping. These bonds are payable to bearer, and the title will pass by delivery without indorsement. Interest on coupon bonds is collected by means of interest coupons, which are detached by the holder as they become due.

Registered bonds are preferable for persons intending to hold them for a considerable period, and they differ from coupon bonds in the following respects:

(a) They have inscribed upon their face the names of the persons to whom they are issued.

(b) They are payable only to the persons to whom issued or their assigns.

(c) The ownership of registered bonds can be transferred only by assignment in proper form.

*Assignment
of bonds.*

8. Registered bonds are assigned by the use of a form printed on the back, properly dated and acknowledged. When the assignment is made by mark, it must be witnessed by at least one

person other than the officer before whom it is made. A ledger account is opened in the Treasury Department at Washington with each holder of one or more registered bonds, and when such bonds are assigned they should be transmitted by the new owner to the Secretary of the Treasury (Division of Loans and Currency) for transfer on the books of the department. Registered bonds cannot be exchanged for coupon bonds. Coupon bonds may be converted into registered bonds, without charge, at the request of the holder.

9. Under the regulations of the Treasury Department a minor cannot assign registered bonds without the consent of a duly appointed guardian or trustee, evidence of whose authority must be submitted. A minor has the right to convert his postal savings certificates into registered bonds, but if he should desire to assign the bonds during his minority he must comply with this regulation. This difficulty does not exist in the case of coupon bonds, which are transferred by mere delivery.

*Assignment
by minors.*

10. Interest on registered bonds is paid by checks drawn at the Treasury Department in favor of the registered holder. These checks are sent by mail to the post-office address of the holder, and the holder of a registered bond should notify the Secretary of the Treasury (Division of Loans and Currency) of any change in his post-office address at least fifteen days before the interest falls due. Checks for interest on registered bonds, as well as interest coupons detached from coupon bonds, are payable on presentation at the United States Treasury or at the office of any assistant treasurer of the United States. Interest checks and coupons covering interest on postal savings bonds may be cashed by postmasters under the same conditions as other Government paper.

*Payment
of interest.*

11. Payment on registered bonds that have been lost or stolen may be stopped by notifying the Secretary of the Treasury (Division of Loans and Currency) at Washington. If coupon bonds are lost the Government does not undertake to protect the owner against the wrongful holder, but recognizes the bearer only. The owner has recourse only to such means as he could use to recover any other valuable property. When bonds, either registered or coupon, have been destroyed, wholly or in part, or defaced, a

*Bonds lost
or destroyed.*

claim may be filed with the Secretary of the Treasury under certain prescribed conditions for their replacement. Such claims will not be allowed for coupons which have been detached from coupon bonds.

Ownership. 12. United States bonds are issued, transferred, and redeemed under such regulations as the Secretary of the Treasury may prescribe. Requests by holders for additional information after the delivery of the bonds should be addressed to the Secretary of the Treasury (Division of Loans and Currency), Washington, D. C.

Purchase by board of trustees. 13. On the application of any holder the board of trustees will purchase postal-savings bonds at par. Registered bonds sent to the board for purchase must be assigned to the "Board of Trustees, Postal Savings System."

FRANK H. HITCHCOCK,
Postmaster-General.

NOTE.

The following described securities, at the rates respectively *Securities* designated, will be accepted by the trustees as security for the safety *acceptable.* and prompt payment on demand of deposits, viz.:

a. Interest-bearing bonds of the United States, bonds issued by the Government of the Philippine Islands, and bonds of the District of Columbia and the Government of Porto Rico will be received at their par value.

b. Bonds of any State of the United States and bonds of the Territory of Hawaii will be received at 90 per cent of their market value, such market value not to be considered as exceeding par.

c. Bonds of any city, town, county, or other legally constituted municipality or district in the United States which has been in existence for a period of ten years, and which, for a period of ten years previous, has not defaulted in the payment of any part of either principal or interest of any funded debt authorized to be contracted by it, and whose net funded indebtedness does not exceed 10 per cent of the valuation of its taxable property, to be ascertained by the last preceding valuation for the assessment of taxes, will be received at 75 per cent of their market value, such market value not to be considered as exceeding par.

No deposit of bonds for less than one thousand dollars will be accepted, nor will fractions of a thousand be received. The board of trustees reserves the right to reclassify the securities acceptable for deposits or to change the valuation at which they will be received. Under no circumstances will securities other than those above set forth be acceptable.

New York Savings Bank Law

THE BANKING LAWS OF THE STATE OF NEW YORK RELATIVE
TO SECURITIES IN WHICH DEPOSITS IN SAVINGS BANKS
MAY BE INVESTED, CORRECTED TO AND INCLUDING
1910-1911 SESSIONS.

SEC. 146. The trustees of any savings bank may invest the moneys deposited therein and the income derived therefrom only as follows: *In what securities deposits may be invested.*

1. In the stocks or bonds or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is pledged to provide for the payment of the interest and principal, including the bonds of the District of Columbia. *Bonds of the United States and of the District of Columbia.*

2. In the stocks or bonds or interest-bearing obligations of this State, issued pursuant to the authority of any law of the State. *Bonds of state of New York.*

3. In the stocks or bonds or interest-bearing obligations of any State of the United States which has not within ten years previous to making such investment by such corporation defaulted in the payment of any part of either principal or interest of any debt authorized by the Legislature of any such State to be contracted; and in the bonds or interest-bearing obligations of any State of the United States, issued in pursuance of the authority of the Legislature of such State, which have, prior to May 29, 1895, been issued for the funding or settlement of any previous obligation of such State theretofore in default, and on which said funding or settlement obligation there has been no default in the payment of either principal or interest since the issuance of such funded or settlement *Bonds of the states.*

obligation, and provided the interest on such funded or settlement obligation has been paid regularly for a period of not less than ten years next preceding such investment.

Bonds of school districts, counties and municipalities of New York.

4. In the stocks or bonds of any city, county, town or village, school district bonds and union free school district bonds issued for school purposes, or in the interest-bearing obligations of any city, county, town or village of this State, issued pursuant to the authority of any law of the State for the payment of which the faith and credit of the municipality issuing them are pledged.

Bonds of other municipalities of the United States.

5. In the stocks or bonds of any incorporated city situated in one of the States of the United States, which was admitted to Statehood prior to January 1, 1896, and which, since January 1, 1861, has not repudiated or defaulted in the payment of any part of the principal or interest of any debt authorized by the Legislature of any such State to be contracted, provided said city has a population as shown by the Federal Census next preceding said investment of not less than 45,000 inhabitants, and was incorporated as a city at least twenty-five years prior to the making of said investment, and has not since January 1, 1878, defaulted for more than ninety days in the payment of any part either of principal or interest of any bond, note, or other evidence of indebtedness, or effected any compromise of any kind with the holders thereof. But if, after such default on the part of any such State or city, the debt or security in the payment of the principal or interest of which such default occurred has been fully paid, refunded, or compromised by the issue of new securities, then the date of the first failure to pay principal or interest, when due, upon such debt or security, shall be taken to be the date of such default within the provisions of this subdivision, and subsequent failures to pay installments of principal or interest upon such debt or security, prior to the refunding or final payment of the same, shall not be held to continue said default or fix the time thereof within the meaning of this subdivision, at a date later than

the date of said first failure in payment. If at any time the indebtedness of any such city, together with the indebtedness of any district, or other municipal corporation or subdivision except a county, which is wholly or in part included within the bounds or limits of said city, less its water debt and sinking funds, shall exceed 7 per centum of the valuation of said city for purposes of taxation, its bonds and stocks shall thereafter, and until such indebtedness shall be reduced to 7 per centum of the valuation for purposes of taxation, cease to be an authorized investment for the moneys of savings banks; but the Superintendent of Banks may, in his discretion, require any savings bank to sell such bonds or stocks of said city as may have been purchased prior to said increase of debt.

6. In bonds and mortgages on unincumbered real property situated in this State, to the extent of sixty per centum of the value thereof. Not more than sixty-five per centum of the whole amount of deposits shall be so loaned or invested. If the loan is on unimproved and unproductive real property, the amount loaned thereon shall not be more than forty per centum of its actual value. No investment in any bonds and mortgages shall be made by any savings bank except upon the report of a committee of its trustees charged with the duty of investigating the same, who shall certify to the value of the premises mortgaged or to be mortgaged, according to their best judgment, and such report shall be filed and preserved among the records of the corporation.

*Bonds and
mortgages on
real estate.*

Also in the following securities:

(a) The first mortgage bonds of any railroad corporation of this State, the principal part of whose railroad is located within this State, or of any railroad corporation of this or any other State or States connecting with and controlled and operated as part of the system of any such railroad corporation of this State, and of which connecting railroad at least a majority of its capital stock is owned by such a railroad corporation of this State or in the

*Bonds of railroad
corporations of
New York.*

*Payment of
interest and
dividends on
capital stock
has been
punctual.*

mortgage bonds of any such railroad corporation of an issue to retire all prior mortgage debt of such railroad companies respectively; provided that at no time within five years next preceding the date of any such investment such railroad corporation of this State or such connecting railroad corporation respectively shall have failed regularly and punctually to pay the matured principal and interest of all its mortgaged indebtedness, and in addition thereto regularly and punctually to have paid in dividends to its stockholders during each of said five years an amount at least equal to four per centum upon all its outstanding capital stock; and provided further, that at the date of every such dividend the outstanding capital stock of such railroad corporation, or such connecting railroad company respectively, shall have been equal to at least one-third of the total mortgage indebtedness of such railroad corporations respectively, including all bonds issued or to be issued under any mortgage securing any bonds in which such investment shall be made.

* * * * *

*Bonds of railroad
corporations of
the United
States.*

(e) The mortgage bonds of any railroad corporation incorporated under the laws of any of the United States, which actually owns in fee not less than five hundred miles of standard gauge railway exclusive of sidings, within the United States, provided that at no time within five years next preceding the date of any such investment such railroad corporation shall have failed regularly and punctually to pay the matured principal and interest of all its mortgage debt and in addition thereto regularly and punctually to have paid in dividends to its stockholders during each of said five years an amount at least equal to four per centum upon all its outstanding capital stock; and provided further that during said five years the gross earnings in each year from the operations of said company, including therein the gross earnings of all railroads leased and operated or controlled and operated by said company, and also including in said earnings the

amount received directly or indirectly by said company from the sale of coal from mines owned or controlled by it, shall not have been less in amount than five times the amount necessary to pay the interest payable during that year upon its entire outstanding debt, and the rentals for said year of all leased lines, and further provided that all bonds authorized for investment by this paragraph shall be secured by a mortgage which is at the time of making said investment or was at the date of the execution of said mortgage (1) a first mortgage upon not less than seventy-five per centum of the railway owned in fee by the company issuing said bonds exclusive of sidings at the date of said mortgage or (2) a refunding mortgage issue to retire all prior lien mortgage debts of said company outstanding at the time of said investment and covering at least seventy-five per centum of the railway owned in fee by said company at the date of said mortgage. But no one of the bonds so secured shall be a legal investment in case the mortgage securing the same shall authorize a total issue of bonds which together with all outstanding prior debts of said company, after deducting therefrom in case of a refunding mortgage, the bonds reserved under the provisions of said mortgage to retire prior debts at maturity, shall exceed three times the outstanding capital stock of said company at the time of making said investment. And no mortgage is to be regarded as a refunding mortgage, under the provisions of this paragraph, unless the bonds which it secures mature at a later date than any bond which it is given to refund, nor unless it covers a mileage at least twenty-five per centum greater than is covered by any one of the prior mortgages so to be refunded.

(f) Any railway mortgage bonds which would be a legal investment under the provisions of paragraph (e) of this subdivision, except for the fact that the railroad corporation issuing said bonds actually owns in fee less than five hundred miles of road provided that during five years next preceding the date of any such investment the gross *Bonds of railroad corporations owning less than five hundred miles of road.*

earnings in each year from the operations of said corporation, including the gross earnings of all lines leased and operated or controlled and operated by it, shall not have been less than ten million dollars.

*Guaranteed
bonds.*

(g) The mortgage bonds of a railroad corporation described in the foregoing paragraphs (e) or (f) or the mortgage bond of a railroad owned by such corporation, assumed or guaranteed by it by indorsement on said bonds, provided said bonds are prior to and are to be refunded by a general mortgage of said corporation the bonds secured by which are made a legal investment under the provisions of said paragraph (e) or (f); *and provided, further,* that said general mortgage covers all the real property upon which the mortgage securing said underlying bonds is a lien.

(h) Any railway mortgage bonds which would be a legal investment under the provisions of paragraphs (e) or (g) of this subdivision, except for the fact that the railroad corporation issuing said bonds actually owns in fee less than five hundred miles of road, provided the payment of principal and interest of said bonds is guaranteed by endorsement thereon by, or provided said bonds have been assumed by a corporation whose first mortgage, or refunding mortgage bonds, are a legal investment under the provisions of paragraph (e) or (f) of this subdivision. But no one of the bonds so guaranteed or assumed shall be a legal investment in case the mortgage securing the same shall authorize a total issue of bonds which, together with all the outstanding prior debts of the corporation making said guarantee or so assuming said bonds, including therein the authorized amount of all previously guaranteed or assumed bond issues, shall exceed three times the capital stock of said corporation, at the time of making said investment.

*Underlying
bonds.*

(i) The first mortgage bonds of a railroad, the entire capital stock of which, except shares necessary to qualify directors, is owned by, and which is operated by a railroad

whose last issued refunding bonds are a legal investment under the provisions of paragraphs (a), (e), or (f) of this subdivision, provided the payment of principal and interest of said bonds is guaranteed by endorsement thereon by the company so owning and operating said road, and further provided the mortgage securing said bonds does not authorize an issue of more than twenty thousand dollars in bonds for each mile of road covered thereby. But no one of the bonds so guaranteed shall be a legal investment in case the mortgage securing the same shall authorize a total issue of bonds, which together with all the outstanding prior debts of the company making said guarantee, including therein the authorized amount of all previously guaranteed bond issues, shall exceed three times the capital stock of said company, at the time of making said investment.

Bonds which have been or shall become legal investments for Savings Banks under any of the provisions of this section shall not be rendered illegal as investments, though the property upon which they are secured has been or shall be conveyed to another corporation, and though the railroad corporation which issued or assumed said bond has been or shall be consolidated with another railroad corporation, if the consolidated or purchasing corporation shall assume the payment of said bonds and shall continue to pay regularly interest or dividend or both upon the securities issued against, in exchange for or to acquire the stock of the company consolidated or the property purchased or upon securities subsequently issued in exchange or substitution therefor to an amount at least equal to four per centum per annum upon the capital stock outstanding at the time of such consolidation or purchase of said corporation which has issued or assumed said bonds.

Not more than twenty-five per centum of the assets of any savings bank shall be loaned or invested in railroad bonds, and not more than ten per centum of the assets of any savings bank shall be invested in the bonds of any

*Limitation of
bond holdings.*

one railroad corporation described in paragraph (a) of this subdivision, and not more than five per centum of such assets in the bonds of any other railroad corporation. In determining the amount of the assets of any savings bank under the provisions of this subdivision its securities shall be estimated in the manner prescribed for determining the per centum of surplus by section one hundred and fifty-four of this act. Street railroad corporations shall not be considered railroad corporations within the meaning of this subdivision.

NOTE.

California bonds legal for investment by New York Savings Banks. Under the provisions of Section "3" bonds of the State of California are legal investments for New York Savings Banks. Under the provisions of Section "5" bonds of the cities of San Francisco, Los Angeles and Oakland are legal. Under the provisions of Section "6e," the Southern Pacific Railroad First Refunding 4 per centum bonds and all underlying issues are legal.

General Index

	Page
Index to Bank Act of California as Amended.....	254
Index to Public Deposit Acts of California.....	271
Index to County and Municipal Deposit Act of California..	271
Index to Investment Companies Act of California.....	272
Index to National Bank Act as Amended.....	273
Index to Code of the District of Columbia.....	280
Index to Revised Sections of National Bank Act.....	281
Index to Currency Act of March 14, 1900.....	282
Index to Additional Circulation Act (Emergency Currency Act)	283
Index to Postal Savings Bank Act.....	284
Index to Postal Savings Bonds (Information issued Jan. 1, 1913)	286
Index to New York Savings Bank Law.....	286

Bank Act of California as Amended.

	Section	Page
Act—applicable to certain corporations.....	I	9
Effective when	147	102
Title of	I	9
Action—against bank, reports are prima facie evidence.....	142	101
Against superintendent of banks.....	134-136	87-89
Brought under bank act, jurisdiction in.....	136b	96
For sale of real estate, when.....	54	41
May be maintained by Superintendent of Banks to dissolve bank...	135a	88
Adjustment—of investments made prior to this act.....	145	101
Administrator—deposits by	51	40
May deposit with trust company.....	91-92-93	70
Trust company may act as.....	90	67
Advertisement—building and loan associations not to advertise as		
savings banks	12	15
Capital, must show amount paid up.....	14	19
For deposits, prohibited when.....	12	15
Liabilities must show separate.....	14	19
Of banks, how regulated.....	28	30
Of merger	31a	32
Of sale of bank.....	31	31
Agent—purchase of assets of bank, by.....	42	37
Sale of mortgage to bank by.....	35	35
Agreement—of consolidation must be filed.....	31a	32
Sale and purchase	31	31
Amendment—of articles of incorporation must be filed.....	8	13
Amortization—of bonds by savings banks.....	61	54
Annual Report—copies for distribution.....	140	99
Of Superintendent of Banks to contain what.....	140	99
Appeal—from order of Superintendent of Banks.....	134-136	87-88
Appointment—of appraisers	99	75
Of Special Deputy Superintendent of Banks.....	136	91
Apportionment—of capital and surplus to departments.....	23	26
Of capital and surplus to private trust business.....	90	67-70
Articles of incorporation—as affected by bank act.....	145	101
May provide for departmental banking.....	22	26
Of trust company	90	67-70
On consolidation or merger.....	31a	32
Violation of, by banks	134-135a-136	87-88

BANK ACT OF CALIFORNIA—*Continued*

	Section	Page
Assessment—failure of bank to pay.....	123	79
Of banks, how calculated.....	123	79
Of banks for state banking fund.....	123	79
When capital stock impaired.....	133	86
Assets—how may be reached in merger.....	31a	32
Invested in bonds	36-46	36-38
Of banks, relation of loans thereto.....	44	38
Of departments to be kept separate.....	26	29
Purchased by directors, officers and employees.....	42	37
Relation of, to investments	36-46	36-38
Relation of, to loans by savings banks.....	67	60
Sale and purchase	31	31
Shall not be mingled with trust funds.....	32	35
Assignee—deposits by	51-91-93	40-70-71
Attorney—may be employed in liquidating.....	136	88
Of State Banking Department.....	121	78
Auditor—Superintendent of Banks shall provide.....	124	80
Bad debts—compounding of	136	88
What are	21a	26
Balance—sale of stock for assessment.....	133	86
Unclaimed deposits	15	19
Bank—annual report of Superintendent of Banks.....	140	99
Application to do business.....	128	82
Articles of incorporation must be filed.....	128	82
As a borrower	21a	26
Bond investment limited	36	36
Branch office	9	13-14
Capital impaired	133	86
Ceasing business must take what action.....	136a	96
Classified as to capital by population.....	23	26
Commercial, Purposes of	5	10
Conducting business in unsound manner.....	134-135a	87-88
Considered insolvent, when	20	24
Definition of	2	9
Departmental, separate books to be kept.....	26	29
Departmental, shall make reports separately.....	129	83
Dissolution of, by process of law.....	135a	88
Examination of, by court.....	136	88
Examination of, once a year.....	124	80
Examiner, must file oath	125	81
Failure to make report, penalty.....	138	88
Failure to pay assessment	123	80

BANK ACT OF CALIFORNIA—*Continued*

Bank— <i>Continued</i>	Section	Page
Foreign, inspection of	124	80
Funds, when deposited with other banks.....	43	38
Impairment of capital	133-136	86-88
In liquidation, names posted	141	100
Insolvent condition of, failure to report.....	126	82
Inspection of, by Superintendent of Banks.....	124	80
In unsafe condition	136	88
Investment in bonds limited	46	38
Investments, changed to conform to act.....	145	101
Investments in own stock prohibited	34	35
Liquidation of, by Superintendent of Banks.....	136	88
Loans on own stock prohibited.....	34	35
May apply to court to dissolve.....	137	97
May conduct safe deposit department.....	30	31
May consolidate, how	31a	33
May join National Reserve Association.....	56	43
May purchase real estate, when.....	61	45
Must liquidate, when	136a	96
Must report loans to directors.....	83	65
Mutual, may have capital stock.....	29	30
National, examination of	48	29
Publication of report of	132	85
Publication of unclaimed deposits	15	19
Purchase of	31	31
Rights of creditors in merger.....	31a	32
Sale of	31	31
Savings, purposes of	4	10
Shall not own stock of corporations.....	37	36
Signs must show business conducted.....	28	30
Stationery must show business conducted.....	28	30
Stock, as collateral, limited	44	38
Trust company, purposes of	6	10
When unsafe to continue business.....	135a	88
Banking Association—state banks may join	56	43
Bills of exchange or lading—commercial banks may buy or discount....	80	63
Not construed to create debt	55	43
Bond—of Deputy Superintendent of Banks.....	121	78
Of Special Deputy Superintendent of Banks.....	136	91
Of Superintendent of Banks.....	120	78
Bonds—available for deposit by trust company.....	96	71
Banks limited in investing, underwriting or guaranteeing.....	36-46	36-38
Certified, official list to be kept.....	61a	55

BANK ACT OF CALIFORNIA—*Continued*

Bonds— <i>Continued</i>	Section	Page
Cost of investigation of	61a	55
For deposits by court order, not required.....	94	71
Legal as investment for savings banks.....	61	45
Must be certified, when.....	61-61a	45-55
On deposit by trust company to draw interest.....	96	71
Power of Superintendent of Banks to investigate.....	61a	55
Savings banks may loan on.....	67	60
Borrowed money—by savings banks must be approved.....	62	56
Commercial banks may pledge assets for, to what extent.....	21a	25
Limit on amount borrowed	21a	25
Superintendent of Banks may extend limit.....	21a	25
Borrower—endorser and guarantor, deemed to be.....	66	59
Building and Loan Associations—advertising, how restricted.....	12-12a	16-17
Capital—advertising of, must show what.....	14	19
Apportioned to departments	23	26
Assigned by foreign corporations	7	10-12
Impairment of	133-136	86-89
Increase or decrease	23	26
Invested in bank premises, furniture and fixtures and safe deposit vaults	61-84	45-66
May be increased by surplus	21	25
Must be paid up before issuance of certificate.....	127	82
Necessary to open branch office.....	9	13-14
Of commercial bank, relation to deposits.....	19	23
Of foreign corporations to be separate.....	7	10-12
Of savings bank, in what invested.....	61	45
Of savings bank, relation to deposits.....	19	23
Of trust company, how invested.....	105	77
Of trust company, in what invested.....	105	77
Paid up and surplus must equal what.....	19	23
Re-apportionment to departments	23	26
Relation of surplus to	21	25
Restriction as to loans.....	80	62
Capital stock—as collateral, limited.....	44	38
Assessed when	133	86
Banks shall not invest in their own.....	34	35
Banks shall not loan on their own.....	34	35
Commercial bank, amount required	82	64
Directors must hold	10	14
May be sold for assessment.....	133	86
Mutual banks may issue, how.....	29	30
Of title insurance company doing trust business.....	106	77

BANK ACT OF CALIFORNIA—*Continued*

Capital stock— <i>Continued</i>	Section	Page
Paid up value to be endorsed.....	53	41
Par value must be.....	53	41
Reduction of	55	43
Required according to classification	23-60-82	44-64
Required by trust company	90	67
Savings bank, amount required	60	44
Certificate—issued by real estate corporations, legality for savings bank	61	45
Necessary before transaction of business.....	24	29
Necessary for new department	24	29
Of deposit, not construed to create debt.....	55	43
Of deposit, savings bank may issue.....	63	57
Of Special Deputy Superintendent of Banks to be filed.....	136	91
Of Superintendent of Banks, filing.....	128	82
Of Superintendent of Banks in merger.....	31a	32
Of Superintendent of Banks, shall be issued when.....	128	82
Of Superintendent of Banks to be posted.....	50	40
Of Superintendent of Banks, to be withheld, when.....	127	82
Of Superintendent of Banks, to state what.....	127	82
Of trust company, when revoked.....	98	73
Requisite fee	24	29
Certificate of deposit—bank cannot make partial payments on.....	21a	25
Certification—of bonds by Superintendent of Banks.....	61-61a	45-55
Of Superintendent of Banks not to obligate the State.....	61	45
Certified checks—issuance unlawful, when	52	40
Must be immediately charged	52	40
City—bonds of, available for deposit by trust company.....	96	71
Legality of bonds of.....	61	45
Claims—against bank in liquidation	136	93
Objection to, liquidation	136	93
Classification—of banks	2	9
Of cities, governed by Federal census.....	23-60	26-44
Of cities in relation to capital and surplus.....	23-60-82	26-44-64
Of trusts	101	76
Commercial bank—advertising, how regulated	28	30
Capital and surplus, their relation to deposits.....	19	23
Capital required	82	64
Classified as to capital by population.....	23	26
Definition of	5	10
How formed to conduct	3	9
Loans of, limited	80-81	62-63
Loans to corporation	81-83	63-65
Loans to directors and employees.....	83	65

BANK ACT OF CALIFORNIA—*Continued*

Commercial bank— <i>Continued</i>	Section	Page
Loan to officers prohibited	83	65
May borrow money to what extent.....	21a	25
May pledge assets to what extent.....	21a	25
Real estate loans restricted	47	38
Reserve required	20	24
Commercial paper—commercial banks may buy or discount.....	80	62
Condition—must be published	132	85
Consolidation—articles of incorporation and consolidation.....	31a	32
How assets of merged banks may be reached.....	31a	32
Of banks	31a	32
Corporations—Consolidated .	31a	32
Doing title insurance and trust business.....	107	78
Loans to by commercial banks.....	81-83	63-65
Loans to, by savings banks.....	65	58
Mutual, may issue capital stock.....	29	30
Sale and purchase	31	31
Stock, as collateral, limited	44	38
Stock, banks shall not own	37	36
Corporations, banking—may be departmental business, when.....	22	26
Must file certain papers	8	13
Corporations, foreign—as fiscal agents	90	67
Cannot exercise powers of trust company.....	7	10
May act as executor, when	7	10
Shall not act as trustee	90	67
Costs—in liquidation	136	89
County—bonds of, available for deposit by trust company.....	96	71
Legality of bonds of	61	45
County deposits—in savings banks	62	56
Creditors—rights of, against banks sold	31	31
Rights of in liquidation	136	93
Currency Association—State banks may join	56	43
Debt—savings banks shall not contract except.....	62	56
Deceased depositors—when moneys due to, escheat.....	15	19
Deeds of trust—legal for deposit by trust companies.....	96	71
Definition—of bank	2	9
Of commercial bank	5	10
Of “electrical corporation”	61	49
Of “gas corporation”	61	49
Of “pipe line corporation”	61	49
Of public utility	61	49
Of savings bank	4	10
Of “street railroad corporation”	61	49

BANK ACT OF CALIFORNIA—*Continued*

Definition of bank— <i>Continued</i>	Section	Page
Of "telegraph corporation"	61	49
Of "telephone corporation"	61	49
Of trust company	6	10
Of "water corporation"	61	49
Departmental banks—application to transact	23	26
Apportionment of capital and surplus	61	45
Assets to be held for depositors, how.....	27	30
Assets to be kept separate	26	29
Corporation may transact business of	22	26
Departments to be in same or adjoining buildings.....	26	29
Investments, how held	27	30
Statement of segregation of capital and surplus.....	23	26
Deposit—by administrator, assignee, executor, guardian, court receiver, trustee	51	40
In National bank by State bank	48	39
Of Postal Savings in savings banks.....	62	56
Of trust companies with State Treasurer, to be increased, when...	98	73
Of trust companies with State Treasurer to consist of what.....	96	71
Trust companies may mortgage premises to State Treasurer, when	97	73
Depository—National bank acting as	48	39
Depositor—contract with, in savings bank.....	64	57
Deceased	15	19
Repayment of, by savings banks.....	64	57
Savings, may be paid by draft.....	62	56
Unknown	15	19
Deposits—advertising for, prohibited when	12	15
Joint	16	21
Lawful reserve	20-64	24-57
Must not be increased, when.....	19	23
Not construed to create debt, when	55	43
Of banks	43	38
Of deceased persons, how collected.....	16	21
Of foreign corporations to be separate.....	7	10
Of married women	16	21
Of minors	16	21
Of other banks with savings banks.....	68	61
Of savings banks with other banks	68	61
Of trust company may be withdrawn from State Treasury.....	98	73
Of trust company, securities may be exchanged.....	96	71
Of trust company securities, title and appraisement.....	99	75
Of trust funds	16	21
Savings, advertised	49	39

BANK ACT OF CALIFORNIA—*Continued*

Deposits— <i>Continued</i>	Section	Page
Savings bank, in what invested.....	61	45
Savings bank, repayment of	64	57
State, county and municipal in savings banks.....	62	56
Trust company, in what invested	106	77
Unclaimed	15	19
When preferred	51-62	40-56
With other banks by departments	25	29
With trust company, authorized by court.....	91	70
With trust company by administrator	91-92-93	70-71
With trust company, by court order.....	93	70
Directors—eligibility of	10	14
Examination of bank by	139	98
Liability for fraud	38	36
May authorize loans to directors, agents or employees.....	83	65
May be removed, when	10	14
May declare dividend, when	21	25
May sell no bond or contract to bank, when.....	35	35
Must hold monthly meetings	11	15
Of commercial bank, loans to	83	65
Of savings bank, loans to prohibited	65	58
Qualifications of	10-11	14-15
Shall not receive commission	39	37
Discount—banks of	5	10
On bills of lading or bills of exchange, or commercial paper, amount of	80	62
Dissolution—causes for, or proceedings in	136	88
Dividends—directors may declare under what conditions.....	21	25
From banks in liquidation	136	92
Of savings banks, how restricted	64	57
Trust company may receive, on securities deposited.....	96	71
Draft—savings depositors may be paid by	62	56
Earnings—Disposition of	21	25
Electrical corporation—definition of	61	49
Eligibility—of directors	10	14
Employees—liability for fraud	38	36
May sell no bond or contract to bank, when.....	35	35
Of commercial bank, loans to	83	65
Of savings bank, may borrow funds	65	58
Shall not receive commission	39	37
Endorser—deemed to be borrower, when	66	59
Entries—penalty for false	38	36

BANK ACT OF CALIFORNIA—*Continued*

	Section	Page
Examination—at expense of bank, when	138	98
Of banks by directors	139	98
Of national banks	48	39
Examiner—failure to report insolvency	126	82
Of State Banking Department	121	78
Shall not be appointed receiver, when.....	125	81
Executor—deposits by	51-91-93	40-70
Foreign corporation may act, when	7	10
Trust company may act as	6-90	10-67
Fee—for appraisal of trust company securities.....	99	75
For branch office	9	14
For investigating bonds	61a	55
For special examination	124	80
Filing—of documents preliminary to organization.....	8	13
Of proceedings in liquidation	136b	96
Fiscal agent—foreign corporation as.....	90	67
Foreign banks—inspection of	124	80
Foreign corporations—see Corporations—foreign		
Funds—of State Banking Department	123	79
Paid out on court order.....	137	97
Furniture and fixtures—investment in, by commercial banks.....	84	66
Investment in by savings banks	61	45
Gas corporations—definition of	61	49
Government—bonds available for deposit by trust company.....	96	71
Legality of bonds of	61	46
Guarantee—of banks restricted	36	36
Guardian—deposits by	51-91-93	40-70-71
May collect deposit, when	16	21
Trust company may be, for estate	90	70
Hypothecation—of assets	21a	25
Impairment—of capital stock	133-136	86-88
Information—accessible to general public	141	100
For public, or stockholders	17	22
Injunction—against Superintendent of Banks	134-136	87-88
Insolvent—bank, duties of Superintendent of Banks.....	136	88
Upon failure to restore reserve	20	24
Inspection—of all banks once a year.....	124	80
Interest—accrued but unpaid, not profits when.....	45	38
On deposits of trust funds	95	71
Inventory—liquidation of delinquent banks	136	93
Investigation—of bonds and securities by Superintendent of Banks...	61a	55
Of fitness of stockholders	128	82

BANK ACT OF CALIFORNIA—*Continued*

	Section	Page
Investments—bank shall not invest in own stock.....	34	35
By savings banks after July 1, 1909, legality of.....	66	59
Changed to conform to act, how.....	145	102
In bonds limited	36-46	36-38
In stock of corporations prohibited except	37	36
Of departments held for depositors	27	30
Of trust funds, how regulated	105	77
Trust company, how governed	106	77
Irrigation District Bonds—legality of	61	45-46
Joint deposits—savings bank deposit in name of two or more persons..	16	21
Judgment—dissolving banks, Superintendent of Banks may procure...	135a	88
Jurisdiction—in actions brought under Bank Act.....	136b	96
Lawful reserve—trust funds not to be carried as.....	32	35
Legality—of bonds or notes for savings banks.....	61	45
Letters of administration—certain heirs need not procure, when.....	16	21
Liabilities—advertising to be separate	14	19
Shall not be increased, when.....	20	24
Liability—for making false statement	38	36
Of directors, officer or employees for fraud.....	38	36
Of stockholders cannot be waived	40	37
Life insurance companies—use of word “trust” by foreign.....	12b	18
Limit—“borrowed money”, amount of	21a	26
Of amount of real estate loans.....	47-67-105	38-60-77
Of deposit liabilities	19	23
Of deposit of savings banks in any one bank.....	68	61
Of investment in safe deposit department	30	31
Of loans by commercial banks	47-80	38
Of loans by savings banks	66-67	59-60
Of loans by trust companies	105	77
Of loans on bank or corporation stock	44	38
Of purchase, underwriting or guaranteeing bonds	36	36
Of time for holding real estate	54	41
On deferred payment of interest	21a	26
Superintendent of Banks may extend, on money borrowed	21a	26
Liquidation—banks in, claims against	136	88-93
Banks in, names to be posted.....	141	100
Compensation of counsel in	136	91
Costs in	136	92
Of banks, voluntary	136a-137	96-97

BANK ACT OF CALIFORNIA—*Continued*

	Section	Page
Loans—Bank shall not loan on own stock	34	35
By commercial banks, how limited	47-80-81	38-62
By commercial banks, to officers, directors and employees.....	83	65
By foreign corporations	7	10
By savings banks, how limited	66-67	59-60
By savings banks, prohibited, when	68	61
By savings banks, renewal of.....	66	59
By savings banks to directors or officers prohibited.....	65	58
On corporation or bank stock limited.....	44	38
Real estate	47	38
Savings banks, effect of public utilities act	61	45
Shall not be increased, when	20	24
To corporations, directors or officers interested	65-83	58-65
To directors or employees	65-83	58-65
Trust company, how governed	105-106	77
When savings banks must not make new	64	57
Location—Powers as affected by consolidation of cities	23-60-82	26-44-64
Losses—May be charged to surplus when	21	25
Reserve fund may be charged with.....	64	57
Shall be written off when	21a	25
Meeting—Of directors once a month	11	15
Members—Of bank may make application to dissolve	137	97
Mining Stock—Loans on by savings banks prohibited	67	60
Money—Amount of lawful reserve to be kept on hand	20	24
Reserve of savings banks	68	61
Mortgage—Restriction as to loans on	47-67	38-60
Municipal deposits—In savings banks	62	56
Mutual bank—How reserve fund shall be increased	64	57
May have capital stock	29	30
Relation of reserve fund to deposits.. ..	64	57
Name—Restrictions on	12-12a-12b-12c-49	16-18-39
National bank—Examination of as depository	48	39
National reserve association—State banks may join	56	43
Notes—Legal for savings banks, when.....	61	45-49
Officer—Liability for fraud	38	36
May sell note, bond or contract to bank, when	35	35
Of bank, loans to prohibited	65-83-105	58-65-77
Of savings bank, shall not be endorser	65	58
Of trust company entitled to knowledge of private trusts	103	77
Shall not receive commission	39	37
Overdraft—Limited to ninety days as asset	21a	26

BANK ACT OF CALIFORNIA—*Continued*

	Section	Page
Payment of deposits—By savings banks, notice required when	64	57
To married women, or to minors	16	21
Percentage—Of reserve required by savings banks	68	61
Personal property—Savings banks may loan on	67	60
Population—In relation to capital governed by Federal census	23	26
Postal savings—Deposited in savings banks	62	56
Deposits of shall not be construed as "borrowed money"	21a	25
Powers—Building and loan associations, restrictions on	12-12a	16-17
Of banks	2-4-5-6	9-10
Of commercial banks	5	10
Of savings banks	4	10
Of trust companies	6	10
Preferred claims—Deposits by order of court	51	40
Deposits of postal savings as	62	56
Deposits of public moneys as	62	56
Preferred creditors—Bank shall not pledge assets except	21a	25
Preferred stock—Unlawful for banks	53	41
Private trust—Not subject to inspection of Superintendent of Banks..	101	75
Officers entitled to knowledge of	103	76
Proceedings—In dissolution	136-137	89-97
In liquidation, filing of	136b	96
When banks are merged.....	31a	32
When bank sells assets	31	31
When capital of bank is impaired	133	86
When reserve falls below required amount	20	24
Profit and loss—Certain debts charged off to, when	21a	26
Profits—Accrued but uncollected interest not to be included in	45	38
Public administrator—May deposit with any bank, when.....	51	40
Public moneys—Deposited in savings banks	62	56
Deposit of, shall not be construed as "borrowed money"	21a	26
Public utilities act—Effect on loans and investments by savings banks	61	45-49
Public utility—Bonds, when legal for savings banks	61	45-49
Definition of	61	49
Purchase—Of assets of banks by officers, directors, etc.	42	37
Of banks	31	31
Railroad—Bonds, when legal for savings banks	61	45-49
Ratio—Of capital and surplus to deposit liabilities	19	23
Of reserve to deposit liabilities	20-68-105	24-61-77
Real estate—Contract not to be sold to bank, when	35	35
Corporation certificates, when legal for savings banks	61	45-49
Loans on, by commercial bank	47	38

BANK ACT OF CALIFORNIA—*Continued*

Real estate— <i>Continued</i>	Section	Page
Loans on, by savings bank	67	60
Mortgaged as deposit by trust company	96	71
Receiver—Bank examiner shall not act, when	125	81
Deposits by	51	40
Trust company, oath required	90	67
Report—Annual, of Superintendent of Banks to Governor	140	99
Of banks, called for how often	131	85
Of banks, publication of	132	85
Of banks to State Banking Department	130	83
Of examination by directors	139	98
Special, to Superintendent of Banks	130a	85
Trust company must report, what	98-101	73-75
Reserve—For departmental bank	25	29
Of commercial banks, relation to deposits	20	24
Of savings banks	68	61
Of savings banks, relation to deposits	19	23
Required for commercial banks	20	24
Trust company, how governed	106	77
Reserve fund—Mutual savings banks, required	60	44
Of mutual savings bank, may be used how.....	64	57
Revolving fund—Superintendent of Banks may retain	123	79
Safe deposit department—Any bank may conduct.....	30	31
Investment in, by commercial bank	84	66
Investment in, by savings bank	61	45-49
Investment in, by trust company	105	77
Sale—Of banks or departments	31	31
Savings bank—Advertising, how regulated.....	28	30
Bonds and notes when legal for investment	61	45-49
Capital and surplus, their relation to deposits	19	23
Capital stock required	60	44
Classified as to capital by population	23	26-27
Contracts with depositors	64	57
Corporation loans, directors or officers interested	65	58
County deposits in	62	52
Definition of	4	10
Deposits of other banks with	68	61
Employees or agents may borrow funds	65	58
Investments, effect of public utilities act	61	49
Investments, legality of	66	59
Loans, effect of public utilities act	61	49
Loans, must be secured how	67	60
Loans of, limited	66	59

BANK ACT OF CALIFORNIA—*Continued*

Savings bank— <i>Continued</i>	Section	Page
Loans to directors and officers prohibited	65	58
May borrow postal savings or public money.....	62	56
May issue certificates of deposit	63	57
Municipal deposits in	62	56
Must not make new loans, when	64	57
Mutual reserve fund of must be increased, when	64	57
Mutual reserve fund, when required	60	45
Only, to receive savings deposits.....	49	39
Organized without capital stock	60	44
Purposes of	4	10
Reserve required	68	61
Shall not contract debt except	62	56
Use of term restricted	12-12a-49	16-17-39
Without capital stock reserve fund must equal what	19	23
Savings department—Investments to be separate	26	29
Savings deposits—Advertising for, prohibited when.....	12-12a	16-17
School district—Bonds of, available for deposit by trust company ...	96	71
Legality of bonds of	61	46
Securities—Certified, official list to be kept	61a	55
Cost of investigation of	61a	55
Deposited by trust company, examination of	96-97-98-99	71-75
Hypothecated by savings bank	62	57
Illegally held by banks	145	101
Security—Percentage, for savings bank loans	67	60
Signs—Of banks must show what	28	30
Special report—Of banks, Superintendent of Banks may require	130a	85
State—Law, violated by banks	134-135a-136	87-88
Legality of bonds of	61	46
Shall be responsible for securities deposited by trust company ..	96	71
State banking department—Assistants, attorney, chief deputy, exam- iner, officials of	121	78
Created	120	78
Examiner, failure to report insolvent condition	126	82
Fund of	123	79
Special report to	130a	85
State banking fund—Amount of	123	79
State deposits—In savings banks	62	56
State of California—Bonds of, available for deposits by trust company	96	71
State treasurer—Deposit with, by trust company	90	67
May accept mortgage on trust company premises, when	97	73
Stationery—Of banks must show what	28	30

BANK ACT OF CALIFORNIA—*Continued*

	Section	Page
Stock—As collateral, limited	44	38
Impairment of	133-136	86-88
Investment in, prohibited	37	36
Number of shares held by directors to be posted	17	22
Preferred prohibited	53	41
Stockholders—Liability of cannot be waived	40	37
May elect receiver, when	136	95
Meeting of, may be called by Superintendent of Banks	135	88
Must confirm consolidation	31a	32
Names of to be on file	17	22
Stockholders' meeting—Superintendent of Banks may call	135	88
Street railroad corporation—Definition of	61	49
Superintendent of Banks—Action by, to procure judgment of dissolution	135a	88
Annual report to Governor	140	99
Appointment of	120	78
Approval of capital and surplus apportioned	23	26
Authority to liquidate bank	136	89
Consent necessary to do departmental business	23	26
Liquidation by	136	88-89
May appoint special deputies	136	91
May authorize deposits by trust company	96	71
May examine national banks, when	48	39
Official reports <i>prima facie</i> evidence	142	101
Powers of	124	80
Power to investigate bonds and securities	61a	55
Reports of banks to	130	83
Shall direct discontinuance of unsound practices	134	87
Shall give notice of liquidation proceedings	136	89
Shall not inspect private trusts	101	75
Shall require banks to repair captial, when	133	86
Superior court—As to conflicting claims, liquidation of banks	136	93
Surplus—Maximum necessary to maintain	21	25
May be converted into capital	21	25
Of savings bank, in what invested	61	46-50
Of trust company, in what invested	105	77
One-tenth of net profits to be added before dividend	21	25
Telegraph corporations—Definition of	61	49
Telephone corporations—Definition of	61	49
Title—Of act	1	9
To accompany mortgage deposited by trust company	99	75

BANK ACT OF CALIFORNIA—*Continued*

	Section	Page
Title insurance company—Doing trust business.....	106-107	77-78
Shall not conduct commercial or savings bank	22	26
Transfer—Of assets and liabilities by bank	31	31
Trust company—Additional deposits by, to be authorized.....	98	73
Additional powers dependant upon location	90	67
Advertising, how regulated	28	30
Articles of incorporation	90	67
Capital required	90	67
Causes for dissolution	134-136	87-88
Definition of	6	10
Departmental business	106	77
Deposits by, to be authorized	96	71
Deposits with, how secured	98	73
Deposits with State Treasurer	96-97-98-99	71-75
Interest or dividends on securities deposited	95	71
Investment of trust funds	94	71
Lawful reserve of	105	77
Liquidation of	136	89
May withdraw securities from State Treasurer, when	98	73
Powers of	6	10
Private trusts confidential	103	76
Purposes of	6	10
Restriction on investments	105	77
Shall pay interest on deposits	95	71
Trust funds, meaning of term	98	73
Trusts classified	101	75
Use of term restricted	12-12a-12b	16-17-19
Trust department—May deposit with department of same corporation	25	29
Operated by title insurance company	106-107	77-78
Trustee—Deposits by	51	40
Trust funds—Deposits of	16	21
Interest on, as provided by court	95	71
Investments, how regulated	105	77
Meaning of term	96	73
Shall not be counted as reserve	32	35
Shall not be mingled	32	35
Trusts—How classified	101	75
Unclaimed deposits—Publication of	15	19
Underwriting—Of bonds limited	36	36
Undivided profits—One-tenth to be carried to surplus before dividend	21	25
Shall not be combined with surplus in advertising	14	19

BANK ACT OF CALIFORNIA—*Continued*

	Section	Page
United States—Bonds available for deposit by trust company	96	71
Legality of bonds of	61	46
Violation—Of any law of State	134-135a	87-88
Voluntary liquidation—Of banks	136a-137	96
Warning—to discontinue violation of law	134	87
Water corporation—Definition of	61	49
Withdrawal—Of savings deposits, conditions of	64	57
Of securities by trust company.....	96-102	71-76

State Deposit Act

	Section	Page
Act of 1905 repealed.....	8	105
Additional security may be required	3	104
Bonds which may be used as security for funds on deposit.....	3	104
Certificate of deposit taken by state treasurer counted as cash.....	7	105
Deposit of state moneys in banks.....	1	103
Deposits subject to call.....	1	103
Expense of transporting moneys to and from depositary banks.....	1	103
Indemnity bonds may be required	5	105
Interest—rate on deposits	1	103
Interest—when payable	2	104
Limitation of deposits	1	103
Provisions of contract	4	104
School moneys on deposit	2	104
Security for deposits	1	103
Treasurer's annual statement to bank	4	104
Treasurer not responsible for deposits	6	105
Warrants may be paid by certificates of deposit.....	7	105
Value of bonds deposited as security	3	104

County and Municipal Deposit Act.

Amount that may be deposited	5	107
Bonds required as security	1	106
Counties or municipalities may buy bonds	12	109
Deposit of public moneys, other than state, in banks.....	1	106
Expense of transportation of moneys to and from depositary banks....	10	109
Interest payable quarterly	2	106
Minimum rate two per centum	2	106
On failure of bank to repay, security to be sold.....	8	108
Public officials not responsible for deposits.....	9	108
Rate of interest to be fixed, when.....	2	106
Receipt for deposit	3	107
Receipts to be counted as cash	6	108
Record of deposits	4	107
Repeal of acts in conflict	13	109
Value of bonds deposited as security	1	106
Violation of deposit laws	11	109

Investment Companies Act.

	Section	Page
Act	1	III
Advertising	9	II6
Agent, definition of	2d	III
Appeal, may be made to Superior Court	12	II7
Application for permit of sale	4	II2
Appropriation;;.	24	I20
Appointment, of agent	7	II5
"Broker Investment," definition of	2c	III
Brokers, reports of	10b	II7
Commissioner, of Corporations, duties of	5	II4
Commissioner, shall employ clerks, deputies, etc.	17	II9
Commissioner, location of office	18	II9
"Companies Investment"—See "Investment Companies"		
Companies, organized in other States	4c	II3
Corporation Commission Fund	19	II9
Definition of "Investment Companies"	2	III
Definition of "Investment Broker"	2c	III
Definition of "Security"	2b	III
Definition of "Agent"	2d	III
Deputies	17	II9
Duties of, Commissioner of Corporations	5	II4
Examination fee	8	II6
Exemptions, from the application of this Act	3	II2
Exemptions, of Investment Companies and securities	4b	II3
False statements	13	II8
Fees	19	I20
Filing fee	4a	II2
Filing, reports by company of purchase and sales	10a	II7
Fines	15	II8
"Fund, Corporation Commission"	19	II9
General Permit necessary	6	II5
"Investment Broker," definition of	2c	III
"Investment Company," definition of	2	III
"Investment Companies," under control of Commissioner	8	II6
"Investment Companies" must file reports	10a	II7
Public inspection, reports open to	11	II7
Reports, by Commissioner of Corporations	21	I20
Reports, Investment Companies must file.....	10a	II7
Reports, of Brokers	10b	II7
Reports, open to public inspection	11	II7
Sale, the term	2e	II2

	Section	Page
Security, definition of	2b	111
Superior Court, Appeal may be made to	12	117
State Corporation Department, created	16	118
Violations	14	118

National Bank Act as Amended.

Act—national bank	I	121
Additional Circulation Act		217
Amendments to articles of association	42	132
Appointment—term and salary of Comptroller.....	3	121
Articles of association	13	124
Assessment for impairment of capital.....	115	160
Assessment—provision for enforcement of	116	160
Associations must not hold their own capital stock.....	111	159
Bank circulation	Chapter III	135
Bank circulation—penalty for imitating for advertising purposes.....	167	181
Pledging	166	180
Preparation of	59	140
Bank—closed circulation of	71	146
Bank may enjoin further liquidation proceedings.....	145	170
Bank—proceedings to liquidate must be brought	146	171
Banks—liquidating circulation of	89	152
National, failed	160	176
To take circulation at par	77	148
Whose existence has expired	142	169
Bonds—annual examination of	56	137
Deposit of United States	24	128
Examination of	55	137
Exchange of	51	136
Forfeited if circulation is dishonored	144	170
General provisions respecting	57	138
Held by treasurer	52	136
Notice of transfer of	54	137
Of liquidating banks	141	168
Record of transfer of	53	137
Relation of bonds deposited to capital	50	136
Security for circulation	49	135
Sold at private sale	151	172
Sold at public auction	149	171
United States, defined	48	135

NATIONAL BANK ACT—*Continued*

	Section	Page
Capital—assessment for impairment of	115	160
Relations of, to bonds deposited	50	136
Capital stock—associations must not hold their own.....	111	158
Amount required	17	126
Enforcing payment of	20	127
Increase of	43	133
Payment of	19	126
Reduction of	45	134
Restoration of	21	127
Shares of	18	126
When increase becomes valid	24	128
Certificate of authority	25	128
Organization	15	125
Publication of	26	129
Officers and directors	23	128
Certification of checks—false	177	185
False, penalty for	178	185
Certified copies of organization certificate as evidence.....	183	187
Charter—forfeiture of	157	174
Circuit courts may enjoin Comptroller	180	186
Circulation—amount obtainable	58	139
BanksChapter III		135
Of extended banks	69	145
For what receivable	63	141
Improper use of bank	113	159
Of expired banks, penalty for issue of.....	176	184
Of gold banks	64	142
Shall bear charter number of bank	60	141
Tax on	Chapter IV	148
Clearing house certificates counted as reserve.....	97	154
Clerks in Comptroller's office	7	122
Closed bank—circulation of	71	146
Comptroller of the Currency	2	121
Condition—reports of	119	161
Verification of, report of condition.....	120	162
Consent of two-thirds necessary for extension.....	132	166
Contributions—corporation, to political parties prohibited.....		215
Converted bank may retain branches	39	132
Corporate existence—extension of.....Chapter VI		165
Powers	16	125

NATIONAL BANK ACT—*Continued*

	Section	Page
Counterfeit circulation—penalty for	169	181
Penalty for dealing in	175	184
Penalty for improper	165	180
Penalty for passing	172	183
Creditor's bill against shareholders	164	179
Creditors—illegal preference of	163	179
Crimes	Chapter VIII	180
Currency Act, March 14, 1900.....		207
Currency bureau.....	Chapter I	121
Delivering circulation—penalty for improper	165	180
Deposit and withdrawal of public moneys in government depositaries..	226	203
By certain postmasters in, provision for government depositaries..	227	203
Not required for consolidation	140	168
Of lawful money for redemption of outstanding circulation.....	139	168
Of United States bonds	24	128
Depositaries—government	Chapter XI	202
Deputy Comptroller	5	122
Designation and duties of government depositaries.....	225	202
Directors—number and election of.....	27	129
Oaths of	31	130
Qualifications of	28	129
Vacancies in board of	33	130
Dissenting shareholders may withdraw	135	166
Dividends by national banks.....	109	158
Reports of	121	162
Unearned, prohibited	114	159
Earnings—reports of	121	162
Election—failure to hold annual	32	130
Qualifications of voters at.....	30	130
Enforcing tax on circulation	83	150
Evidence	182	187
Examination in District of Columbia.....	128	164
Examiners	125	163
Compensation of	127	164
Qualification for	126	163
Existence—corporate	Chapter VI	165
Extended banks—circulation of	69	145
Extension of corporate existence	Chapter VI	165
Failure to make semi-annual return of taxable circulation.....	88	152
First lien for redeeming circulation	150	172
Fraudulent notes to be marked	79	148

NATIONAL BANK ACT—*Continued*

	Section	Page
Gold bank—conversion of	36	131
Organization of	35	131
Circulation of	64	142
Reserve requirements for.....	102	156
Gold certificates counted as reserve.....	101	155
Government depositaries	Chapter XI	202
Impairment of capital—assessment for.....	115	160
Impressions of tools, penalty for having.....	174	184
Penalty for taking unauthorized	173	183
Indian Territory—jurisdiction in	185	187
Insolvent bank—distribution of assets of.....	155	174
Notes to creditors of.....	154	173
Taxes unremitted	160	176
Interest by Comptroller in national banks prohibited	6	122
Interest—penalty for unlawful.....	108	158
Which may be charged by national banks.....	107	157
Issue of other notes prohibited.....	78	148
Jurisdiction	Chapter VIII	180
Lawful money	231	206
Laws apply to all national banks.....	92	153
Legal tender and lawful money.....	231	206
Liabilities—exception for trustees, etc.	41	133
Liability of directors	158	174
Personal, of shareholders	40	132
Restriction on banks	112	159
Liquidating banks, circulation of.....	70	146
Liquidation	Chapter VII	167
Location—change of	46	134
Material for circulation—penalty for illegal possession or use of.....	171	182
Money order funds—penalty for misapplication of.....	228	204
Mutilating circulation—penalty for	168	181
National bank act	I	121
National bank cases—jurisdiction of.....	181	186
National banks—powers and organization of.....	Chapter II	124
Regulation of	Chapter V	153
“National,” use of—in titles	130	165
Notice to present circulation for redemption.....	148	171
Uncurrent—prohibition against	117	161
United States, redemption in	74	147
Notice of voluntary liquidation	138	168
“Obligations of the United States” defined.....	170	182
Office malfeasance—penalty for	179	186

NATIONAL BANK ACT—*Continued*

	Section	Page
Offices, vaults, etc., Comptroller's	9	122
Organization and power of national banks.....Chapter II		124
Certificate	14	124
Proceedings, examination of	22	127
Organized under the act of February 25, 1863—status of.....	47	135
Penalty for failure to report.....	122	162
For unlawful interest charges	108	158
Place of business	93	153
Plates and dies—control of	61	141
Examination of	62	141
Pledging United States notes—penalty for.....	166	180
Powers and organization of national banks.....Chapter II		124
Powers—corporate	16	125
President shall be a director.....	34	131
Private sale—bonds sold at	151	172
Proceedings in default of tax on circulation.....	82	150
Protest of bank circulation	143	169
Public auction—bonds sold at.....	149	171
Provisions for redeeming circulation	66	143
Qualifications of Comptroller	4	121
Real estate—dealings of national banks in.....	106	157
Receiver—appointment and duties	152	172
When may be appointed.....	153	173
When he may purchase property	159	175
Receivership		167
Expenses of—how paid	156	174
Redeemed notes to be cancelled.....	73	146
Redemption account—disposition of	75	147
Fund counted as reserve.....	98	154
Of incomplete circulation.....	76	147
Of circulation in United States notes.....	74	147
Of United States note certificates.....	100	155
Refunding excess tax on circulation.....	84	150
Regulation for redemption records.....	72	146
Of the banking business.....Chapter V		153
Report—annual, of Comptroller	10	123
Reports of condition	119	161
Of condition, verification of.....	120	162
Of dividends and earnings.....	121	162
Of other banks.....	123	162
Penalty for failure to.....	122	162

 NATIONAL BANK ACT—*Continued*

	Section	Page
Reserve—agents' balances counted as.....	96	154
Cities	94	153
Clearing house certificates counted as.....	97	154
Deposit in central reserve city.....	103	156
Cities, additional	104	156
Not maintained	95	154
Redemption fund counted as.....	98	154
Requirements	94	153
Requirements for gold banks.....	102	156
United States gold certificates counted as.....	101	155
United States note certificates counted as.....	99	154
Restrictions on liability	112	159
On loans	110	158
Savings banks in the District of Columbia.....Chapter X		200
Seal of Comptroller's office.....	8	122
Semi-annual return of circulation.....	81	149
Return of taxable circulation.....	87	151
Shareholders' agent—appointment qualifications of.....	161	176
Agents, duties of.....	162	178
Dissenting, may withdraw	135	166
Liability	40	132
List of	118	161
Special examination necessary for extension.....	133	166
State banks—conversion of.....	37	131
Capital of	38	132
State taxation of national banks.....	124	163
Status not changed by extension.....	134	166
Suspension of business after default	147	171
Suits against United States officers or agents.....	184	187
Surplus of national banks.....	109	158
Tax on authorized circulation.....	86	151
CirculationChapter IV		148
Circulation of converted banks.....	89	152
Circulation provisions restricted	90	152
Taxation of national banks by state.....	124	163
Of notes, etc.	91	152
Title—change of	46	134
Trust companies in the District of Columbia.....Chapter IX		188
Unauthorized deposit of public moneys—penalty for.....	229	205
Receipt or use of public money.....	229	205
United States note certificates counted as reserve.....	99	154
Use of "National" in titles	130	165

NATIONAL BANK ACT—*Continued*

	Section	Page
Violation of banking law.....Chapter VIII		180
Visitorial power—limitations of	129	165
Vote required for liquidation.....	137	167
When circulation is exempt from taxation.....	85	150
Withdrawing circulation	67	144
Circulation, general provisions for.....	68	144
Worn-out or mutilated circulation.....	65	142

Code of the District of Columbia

	Section	Page
Amendment—provision for	220	199
By-laws	210	197
Capital—increase of	215	198
Capital stock—money payments of—required.....	207	196
Provisions relating to	199	193
Charter	188	189
Filing of	190	189
Competent to act as trust, etc.....	193	191
Corporate existence	198	193
Directors' liability for payment of unearned dividends.....	211	197
Liability may be avoided	212	197
Number and election of.....	208	196
Responsibility of, for excess liabilities.....	213	197
District court—all similar, subject to this act.....	219	198
Enforcement of subscriptions to.....	200	194
Evidence—certified copy of incorporation certificate competent.....	216	198
Jurisdiction, district supreme court has.....	218	198
Larceny	204	195
Liability for failure to report.....	203	195
No bond or other security required.....	217	198
Notice of intention to apply for charter.....	189	189
Officers—appointment of	209	196
Organization certificate	187	188
Perjury	204	195
Powers	192	190
Privileges extended to existing corporations.....	196	192
Provisions for organization	186	188
Qualifications as trustee.....	194	192
Real estate—dealings in.....	197	193
Report—annual of Comptroller	201	194
Security for faithful performance of trust.....	195	192
Stock—interest of	205	195
Stockholders' liability	206	196
Supervision—under Comptroller	191	190
Tax on gross earnings.....	202	194
Trust companies, etc.—provisions for charter.....	189	189
Trustee not liable on stock assessment.....	214	197

SAVINGS BANKS, ETC.—DISTRICT OF COLUMBIA

Savings banks in—formation of.....	221	200
Examination of, by Comptroller.....	223	201
Reports to Comptroller	222	200
Act of June 25, 1906, relative to.....	224	201

Index to Sections of Revised Statutes Included in the National Bank Act as Amended

Section	Paragraph	Section	Paragraph	Section	Paragraph	Section	Paragraph
324	2	5136	16	5182	63	5220	137
325	3	5137	106	5183	78	5221	138
326	4	5138	17	5184	65	5222	139
327	5	5139	18,42	5185	35,64	5223	140
328	6	5140	19	5186	102	5224	141
329	7	5141	20,21	5187	165	5225	70
330	8	5142	43,44	5188	167	5226	143
331	9	5143	45	5189	168	5227	144
332	128	5144	30	5190	93	5228	147
333	10	5145	27	5191	94,95	5229	148
380	184	5146	28	5192	96	5230	149,150
605	221	5147	31	5193	99	5231	151
629	180	5148	33	5194	100	5232	72
713	222,224	5149	32	5195	103	5333	73
714	222,224	5150	34	5196	77	5234	152
736	146	5151	40	5197	107	5235	154
884	182	5152	41	5198	108	5236	155
885	183	5153	225	5199	109	5237	145
3410	38	5154	37	5200	110	5238	156
3411	85	5155	39	5201	111	5239	157,158
3414	87	5156	47	5202	112	5240	{ 125,126, 127
3415	88	5157	92	5203	113	5241	129
3416	89	5158	48	5204	114	5242	163
3417	90	5159	24,49	5205	115	5243	130
3585	231	5160	50	5206	117	5413	170
3586	231	5161	51	5207	166	5415	169
3587	231	5162	52	5208	177	5430	171
3588	231	5163	53	5209	179	5431	172
3589	231	5164	54	5210	118	5432	173
3590	231	5165	55	5211	119	5433	174
3620	226	5166	56	5212	121	5434	175
3701	91	5167	57	5213	122	5437	176
3811	11	5168	22,23	5214	80	5488	229
3847	227	5169	25	5215	81	5497	230
4046	228	5170	26	5216	82		
5133	13	5172	59	5217	83		
5134	14	5173	61	5218	84		
5135	15	5174	62	5219	124		

Currency Act of March 14, 1900.

	Section	Page
Amendment to section 5138, R. S.....	10	211
Bimetallism—international	14	215
Bonds—deposit of, to secure circulating notes.....	12	213
Issued to maintain reserve	2	207
Substitution of	12	213
U. S., exchange of outstanding issues authorized.....	11	212
Certificates—gold	6	209
Gold, when authority to issue is suspended.....	6	209
Silver, denominations	7	211
Coin—subsidiary issue of	8	211
Coinage of silver dollars.....	5	209
Deposit of bonds to secure circulating notes.....	12	213
Division of issue	4	209
Division of redemption	4	209
Dollar—gold, standard of value.....	1	207
Dollars—silver, coinage of, to retire treasury notes.....	5	209
Gold certificates	6	209
When authority to issue is suspended.....	6	210
International bimetallism	14	215
Issues—division of	4	209
Legal tender quality not affected.....	3	208
Notes—circulating, additional security may be required for.....	12	213
Circulating, denomination of	12	213
Circulating, secured by deposit of bonds.....	12	213
Circulating, shall not exceed paid-up capital.....	12	214
Circulating, tax on.....	13	215
Reissued	2	208
Treasury	2	207
United States, amount outstanding fixed by law.....	6	209
Redemption of treasury notes	2	207
Of United States notes.....	2	207
Reserve—maintenance of	2	207
In trust funds.....	4	209
Redemption—division of	4	209
Silver certificates—denomination	7	211
Dollars, coinage of.....	5	209
Standard of value—gold dollar.....	1	207
Subsidiary coin—issue of.....	8	211
Tax on circulating notes.....	13	215

Additional Circulation Act. (Emergency Currency Act.)

	Section	Page
Additional circulation act, appropriations to carry out.....	16	228
Date of expiration of act.....	20	229
Date of act.....	20	229
Additional circulation—application for, by banks.....	1	217
Application for, by a national currency association.....	3	221
Deposit of securities for	1	218
Deposit of securities for, by national currency association.....	3	221
Distribution geographically	7	224
Information regarding securities pledged for.....	8	224
Legal title of bonds as security for, transferred.....	4	222
Limit of indebtedness of municipality in proportion to balance of taxable property	3	222
Limit of issue.....	5	223
Limited to ninety per centum of cash value of municipals	1-3	217-221
Limited to seventy-five per centum of cash value of commercial securities	1	219
Not to exceed thirty per centum of capital when based on com- mercial paper	1	219
Redemption fund must cover.....	6	223
Reports, monthly	9	225
Securities available for.....	1	218
Status of	5	223
Tax on	9	225
Value of securities pledged for.....	8	224
Withdrawal of	10	225
Circulation—printing of notes	11	227
Redemption of notes.....	12	227
Tax on	9	224
Withdrawal of notes.....	10	226
Commercial paper—definition of	1	219
National Currency Association.....	1	217
A bank may belong to but one.....	1	218
Application by, for additional circulation.....	3	221
By-Laws of	1	218
Capital of	1	217
Certificates of	1	217
Deposit of securities for additional circulation.....	3	221
Dissolution of members of.....	1	218
Failure of member to deposit additional securities.....	1	220

ADDITIONAL CIRCULATION ACT—*Continued*

National Currency Association— <i>Continued</i>	Section	Page
Failure of member to make good redemption fund.....	2	220
Substitution of securities.....	1	220
Liability of member of.....	1	219
Management of	1	218
May be sued.....	1	217
May require additional securities.....	1	220
Members may be sued in circuit court.....	1	220
Membership	1	217
Name of	1	217
Number of banks required to form.....	1	217
Officers of	1	218
Purposes of	1	218
Place of business.....	1	217
Powers of board.....	1	218
Receipt given for bonds deposited.....	4	222
Sale of securities deposited by members.....	2	220
Under authority of Secretary of Treasury.....	13	228
National Monetary Commission, creation of.....	17	228
Expiration of	19	229
To report	18	228
Public deposits	14	228
Interest on	15	228

Postal Savings Bank Act.

	Page
Accounts—who may open	232
Limitation of	233
Maximum	233
Minimum	233
Accounting—methods of	237
Appropriation—enabling	237
Board of trustees—creation of.....	231
Reports of	231
Bonds—available as security for postal savings funds	234
Exchange of deposits for	235
Exempt from taxation	236
Investment of postal savings funds in U. S.	236
Not available as security for circulation	236
Redemption of	237
When they may be issued	236

POSTAL SAVINGS BANK ACT—*Continued*

	Page
Circulation—bonds not available for	236
Compensation of postmasters	237
Deposits—court decrees determine title to	238
Individual, not to be disclosed	237
May be exchanged for bonds	235
Protection of.	238
Interest on	233
Of postal savings funds in banks	234
Withdrawal	233
Faith of United States pledged to depositors	238
Interest—on deposits of postal savings funds in banks	234
On postal savings deposits	233
Minimum deposits	233
Passbooks	232
Postoffices—designation of, as savings depository offices	232
Postal savings stamps	233
Postal savings funds—deposit of, in local banks	234
Investment of, in U. S. bonds	235
Redemption of bonds issued for	237
Withdrawal of, from banks	234
Working balance	235
Interest on	234
Reserve	234
Bonds available as security for deposit of	234
Postmasters—compensation of	237
Reports of board of trustees	231
Stamps—postal savings	233
Safeguards for protection of postal savings bank deposits	238
Surrender of deposits in exchange for bonds	235
Taxation—bonds exempt from	236
Title—to deposits	238
How proved	236
Withdrawal of deposits	233
Withdrawal of deposits of savings bank funds.....	234

Postal Savings Bonds

(Information issued Jan. 1st, 1913)

	Section	Page
Bonds, assignment of	8	240
Bonds, assignment of by a minor.....	9	241
Bonds, exempt from all taxes	2	239
Bonds, lost or destroyed	11	241
Bonds, no limit to amount obtainable by depositor.....	5	240
Bonds, payment of interest on.....	10	241
Bonds, procured only by conversion of deposits	6	240
Bonds, Registered and Coupon	7	240
Securities Acceptable	Note	243

New York Savings Bank Law.

Bonds—limitation of holdings of railroad bonds.....	6i	251
Bonds legal for investment.		
Of United States	1	245
Of District of Columbia	1	245
Of State of New York	1	245
Of counties of New York	4	246
Of municipalities of New York	4	246
Of school districts of New York	4	246
Of real estate in New York	6	247
Of various states, provided	3	245
Of municipalities outside of New York, provided	5	246
Of railroad corporations of New York, provided	6a	247
Of railroad corporations of the United States, provided	6e	248
Of railroad corporations owning less than 500 miles of road, provided .	6f	249
Of railroad corporations, guaranteed, provided	6g	250
Of railroad corporations, underlying, provided	6i	250
Street railroad, not railroad bonds	6i	252
Mortgages on real estate	6	247

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